



CASTELLAN

REAL ESTATE PARTNERS

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Castellan Holdings LLC

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PRIVATE PLACEMENT MEMORANDUM

ACCREDITED INVESTORS ONLY

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1841 Broadway, Suite 400
New York, NY 10023

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IMPORTANT INFORMATION

The Private Placement Memorandum (as updated and or amended from time to time, the “Memorandum”) of Castellan Holdings LLC (the “Company”) is being furnished, on a confidential basis, to a limited number of accredited investors who may have an interest in an investment in the Company (the “Proposed Investment”). This Memorandum is based on information supplied by the Company and is being furnished through the Company’s non-exclusive placement agents, solely for use by prospective investors in connection with their consideration of the Proposed Investment.

This Memorandum constitutes confidential information and may not be distributed, reproduced or used without the prior written consent of the Company or for any purpose other than the evaluation of the Company and the Proposed Investment by the person to whom this Memorandum has been delivered.

This Memorandum has been prepared to assist interested parties in making their own evaluations of the Company and does not, and if hereafter supplemented will not, purport to be all-inclusive or to contain all of the information that a prospective investor may desire. Prospective investors are expected to conduct their own independent investigation, evaluation and due diligence review of the Company, the information contained herein and the Proposed Investment. Any decision to invest in the Company must be based upon such independent analysis and due diligence along with the information set forth in this Memorandum and the Subscription Agreement especially the Risk Factors, which should be read carefully by prospective investors and their legal and tax advisors.

All information presented in this Memorandum with respect to the Company and estimates and projections as to future operations are based on material prepared by the Company and involve significant elements of subjective judgment and analysis that may or may not be correct. There can be no assurance that management’s rendition of current or projected operations are accurate or will be realized.

The placement agents have not independently verified the representations and financial information contained herein. Neither the placement agents nor the Company nor any of their respective affiliates, employees, agents or representatives make any representation or warranty, express or implied, as to the accuracy or completeness of any of the information contained herein or any other written or oral communications transmitted or made available to a prospective investor or its advisors or for any omissions from this Memorandum or any other supplemental information, and the placement agents, the Company and their respective affiliates, employees, agents and representatives expressly disclaim any and all liability based on or in relation to such information and communications.

In determining whether to make an investment in the Company, the investor should carefully read this Memorandum, including, without limitation, the Subscription Agreement and the Risk Factors in Exhibit B.

Some important factors which could cause actual results to differ materially from those in any forward-looking statements include, without limitation, the following: (i) changes to interest rates; (ii) changes to financial market, economic or legal conditions; and (iii) foreign exchange developments. Accordingly, no assurances can be made (i) that projections or estimated investment performance or returns can be realized; (ii) that actual results and final investment performance or returns will not be materially lower than those estimated herein; (iii) that any of the Company’s investment objectives will be achieved; or (iv) that any investor will receive a return of all or any part of an investment in the Company.

The proposed investment will not be registered under U.S. federal or state securities laws or the securities laws of any other jurisdiction and will only be offered, if at all by this Memorandum. The interests in the Company have not been approved or disapproved by the Securities and Exchange Commission or any other state or foreign securities regulator.

Delivery of this Memorandum at any time after the date hereof shall not, under any circumstances, mean, be construed to mean or otherwise create any implication that the Company has undergone or experienced a material change in its finances, operations or business since the date hereof. The information set forth herein is subject to addition, deletion, or amendment without notice. Neither the placement agents nor the Company intend to update or otherwise revise this Memorandum following its initial distribution.

Neither this Memorandum nor its delivery to any prospective investors shall constitute an offer or invitation to buy, sell, transfer or dispose of any asset or security or to undertake any action other than the Proposed Investment as herein defined.

An investment in the Company involves a high degree of risk and should be considered only by sophisticated investors who can bear the economic risks of their investment for an indefinite period of time and who can afford to sustain a loss of their entire investment.

INSTRUCTIONS FOR SUBSCRIPTION DOCUMENTS

Prospective investors should read the Memorandum of the Company carefully prior to subscribing for a membership interest in the Company.

If after reading the Memorandum of the Company you are interested in purchasing a membership interest in the Company, please:

- FIRST:** Review the Subscription Agreement appearing on page 19.
- SECOND:** Complete the information requested in Sections 3, 4 and 17 of the Subscription Agreement.
- THIRD:** Complete the information requested on the signature page (page 29) of the Subscription Agreement and provide a signature where indicated.
- FOURTH:** Complete and attach the appropriate Federal Taxpayer Certification form in accordance with the instructions contained in Section 8 of the Subscription Agreement. Forms are contained in Exhibits C and D hereof. We strongly encourage Non-US investors to consult professional tax advice before doing so.
- FIFTH:** Review the Operating Agreement appearing on page 30 and execute on page 59 where indicated.
- SIXTH:** Deliver the completed and executed Subscription Agreement, Operating Agreement and appropriate Federal Taxpayer Certification to: castellan@castellanre.com, or by facsimile to (212) 901-0965, or to your financial advisor:
- SEVENTH:** Wire the subscription amount from an account in the subscriber's name only according to the following wire instructions:

Receiving Bank:	CapitalOne Bank
Receiving Bank ABA Routing #:	021-407-912
Receiving Bank Address:	424 Madison Avenue, New York, NY 10017
Beneficiary:	Castellan Holdings LLC
Beneficiary Account #:	752-765-3759
Beneficiary Address:	1841 Broadway, Suite 400, New York, NY 10023
SWIFT Code: (For international wires only)	HIBKUS44

Or

You may remit the subscription amount by sending a check payable to **Castellan Holdings LLC** from an account in the subscriber's name only to: Castellan Real Estate Partners, 1841 Broadway, Suite 400, New York, NY 10023.

Overview

Castellan Real Estate Partners (“Castellan”) is a fully integrated investment and property management company focused on the acquisition of undervalued properties, primarily in the New York metropolitan area. Initially formed in 2006, Castellan began its multifamily investment platform in 2009 with the formation of Castellan NYC Partners LLC, a closed end private equity fund aimed at taking advantage of the dislocation in the market caused by the financial crisis. To date, Castellan has acquired a portfolio comprised of 1,335 residential and retail units totaling 958,785 square feet and a capitalization of approximately \$170 million.

Castellan is a successor to a family business which has owned and managed over 1,500 residential and retail units comprising approximately 1.1 million square feet in New York City for over 25 years. Our long history of operating in New York City gives us a significant competitive advantage in terms of local market knowledge, deal sourcing, financing, and property management.

For additional details on Castellan and its strategy please see Appendix A on pages 11 to 18.

Investment Offering

Due to Castellan’s success and track record to date, it is in a position to significantly accelerate the growth of its business due to increased demand from investors and the advantageous timing of the real estate market. We are offering a number of select investors an opportunity to acquire membership interests in the Company, which in turn, will own a stake in Castellan businesses. The investment proceeds will be utilized to augment Castellan’s current infrastructure and allow us to take full advantage of this market opportunity. Management believes an investment in the Company is the best way to capitalize on Castellan’s successful real estate investments and capital raising capabilities.

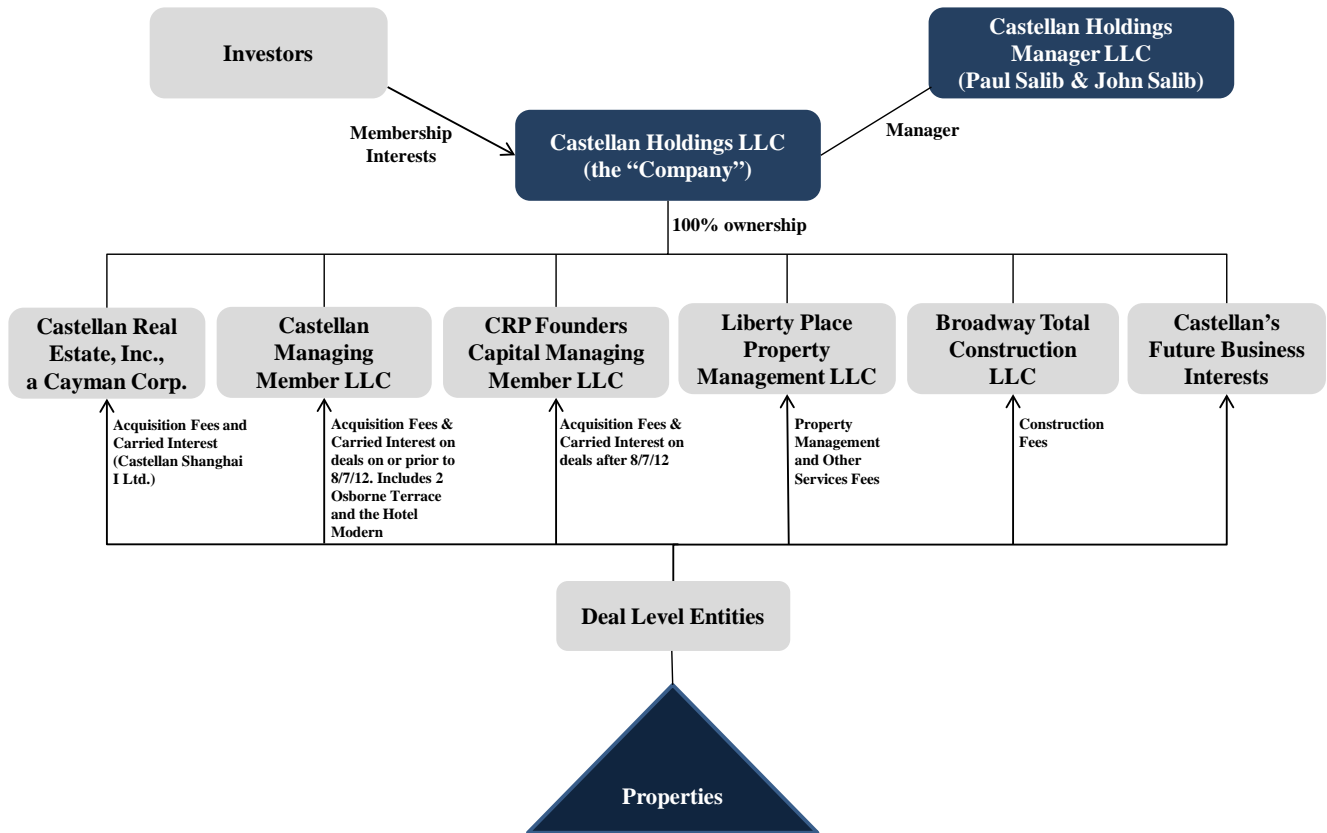
The Opportunity

We believe an investment in the Company represents a unique and compelling opportunity for the following reasons:

- Given our family’s long history of owning and operating multifamily properties in New York City, we have significant competitive advantages that are not easily replicable.
- Our track record has demonstrated our ability to source attractive opportunities and increase the value of our buildings through proactive asset management and prudent capital investments independent of overall market conditions.
- The pipeline of opportunities continues to remain robust. With an enhanced infrastructure in place, we could be more than 20x our current size in our core business alone.
- The volatility of the stock market, the historically low yields of the bond market, the potential for high levels of inflation, the disappointing results of hedge funds and other alternative investment classes have led more investors to appreciate the attractive risk/reward characteristics of our strategy. As a result, we are experiencing significant demand from investors.
- Similarly, broker dealers and their registered advisors have increasingly reached the same conclusion which has resulted in more Castellan deal recommendations to their clients and a widening of our capital distribution channels. Our most recent offerings have been consistently oversubscribed from prospective investors. This resulted in investor allocations being scaled back and many investors being denied access into the offerings.
- Castellan is well positioned to capitalize on the passage of the JOBS Act, which has the potential to significantly increase our visibility and equity distribution capabilities.

- Due to an increasing sentiment of economic uncertainty abroad, New York City has emerged as a “safe haven” for both foreign and domestic real estate investors.
- The talent pool available for hire is rich and employment costs have declined significantly since the financial crisis.
- Our continued investments in technology have enhanced our ability to significantly increase the number of properties under management and service our growing investor base.
- There will be opportunities to launch ancillary businesses that provide services to our portfolios as well as to third parties. Some of these businesses include but are not limited to debt and equity brokerage, property management and construction.

Proposed Investment Structure



Offering Summary

Securities Offered	Units (“Units”) of membership interest in the Company.
Offering Size Target	40 Units, or \$4,000,000. There is no minimum number of Units which must be sold before the offering may close, and the Manager may, in its sole discretion, choose to accept subscriptions above the offering size target of \$4,000,000.
Purchase Price	\$100,000 per Unit; however, the Manager of the Company may, in its sole discretion, accept subscriptions for membership interests in amounts smaller than \$100,000.
Minimum Investment	\$100,000; Company reserves the right to accept a reduced investment at its discretion.
Use of Proceeds	To augment and expand Castellan’s infrastructure by investing in personnel, technology and other facets of the Company.
Investor Suitability	Units will be sold only to “accredited investors,” as defined in Rule 501 of Regulation D under the Securities Act of 1933, as amended.
Syndication Expense	Individuals and entities, including the Manager, which introduce prospective investors to the offering may receive a one-time placement fee of up to 5% of the proceeds received by the Company from the sale of Units to investors introduced by them. The fee will be paid by the Company.
Offering Period; Closings	<p>The Units will be offered until the offering is completed as deemed by the Manager.</p> <p>There is no minimum number of Units which must be sold before the Offering may close. The Manager may choose to close on a subscription for Units as soon as it receives the appropriate amount of subscriptions and cleared funds from the investor.</p>
Risk Factors	An investment in Units is speculative and involves a high degree of risk. Prospective investors should not invest in the Units unless they can afford to lose their entire investment. Please see Exhibit B - “Risk Factors” – to the Subscription Agreement accompanying this Memorandum

Investor Returns

An investment in the Company is projected to deliver a pre-tax net internal rate of return of 35.6% and a 21.4x equity multiple for the Members based on a 15-year investment horizon.

The pro-forma financials below contain forward looking statements which are based on the good faith estimates of the Company and are not representations or guarantees of the Company's performance. Each investor's actual return may vary depending on their individual tax situation and the timing of their investment. Prospective investors should consult with their tax and other professional advisors before investing in the Company.

Units Acquired	1,000	1,500	2,000	2,500	3,000	3,500	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000
Income	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
Equity Cash Flow	-	-	-	-	4,480,769	2,851,215	29,692,378	33,858,726	46,594,717	61,383,716	71,931,774	88,116,423	105,739,708	111,026,693	116,578,028
Acquisition Fees	1,100,000	1,732,500	2,425,500	3,183,469	4,011,171	4,913,684	5,896,421	6,191,242	6,500,804	-	-	-	-	-	-
Property Management Fees	1,509,694	2,835,049	4,755,468	7,364,222	10,737,400	14,667,828	19,792,630	23,820,640	28,193,725	27,615,398	25,902,124	23,087,481	18,976,371	13,381,385	7,064,606
Construction Management Fees	521,500	1,073,750	1,844,500	2,864,922	4,135,203	5,636,148	9,369,916	10,897,857	12,415,044	11,643,294	10,630,372	9,354,091	7,790,646	4,038,378	2,068,438
Total Income	3,131,194	5,641,299	9,025,468	13,412,613	23,364,544	28,068,875	64,751,346	74,768,464	93,704,291	100,642,408	108,464,271	120,557,995	132,506,725	128,446,456	125,711,071
Expenses															
Salaries & Benefits	(2,195,000)	(2,928,624)	(3,905,860)	(5,273,678)	(7,234,934)	(9,158,760)	(11,153,554)	(11,833,508)	(12,580,440)	(11,170,579)	(10,054,374)	(8,422,499)	(6,683,295)	(4,727,533)	(2,928,772)
Rent & Utilities	(250,000)	(357,000)	(468,180)	(689,785)	(920,067)	(1,269,693)	(1,745,552)	(2,125,068)	(2,401,902)	(2,330,431)	(2,133,240)	(1,927,230)	(1,712,126)	(1,358,287)	(1,121,557)
Legal & Professional	(85,000)	(86,700)	(192,474)	(302,444)	(416,736)	(535,479)	(715,113)	(901,718)	(1,036,919)	(997,902)	(895,961)	(789,543)	(678,509)	(562,719)	(442,025)
IT Expenses / Phone	(50,000)	(76,500)	(130,050)	(212,242)	(270,608)	(386,428)	(506,773)	(631,777)	(761,579)	(717,056)	(670,447)	(652,772)	(602,415)	(549,783)	(494,805)
Travel & Marketing	(80,000)	(158,100)	(187,272)	(297,138)	(411,324)	(502,357)	(653,174)	(752,389)	(855,311)	(543,767)	(524,168)	(503,567)	(481,932)	(459,230)	(435,428)
Insurance	(80,000)	(142,800)	(265,302)	(413,871)	(589,926)	(833,581)	(1,109,270)	(1,349,706)	(1,575,882)	(1,469,964)	(1,334,799)	(1,168,772)	(970,205)	(737,356)	(494,805)
Miscellaneous	(240,000)	(106,000)	(170,544)	(280,076)	(404,745)	(578,452)	(770,207)	(946,427)	(1,117,671)	(1,056,368)	(992,166)	(912,539)	(816,648)	(716,557)	(598,940)
Total Expenses	(2,980,000)	(3,855,724)	(5,319,682)	(7,469,234)	(10,248,340)	(13,264,749)	(16,653,643)	(18,540,594)	(20,329,703)	(18,286,066)	(16,605,155)	(14,376,921)	(11,945,131)	(9,111,465)	(6,516,332)
Profit/Loss	151,194	1,785,575	3,705,785	5,943,379	13,116,203	14,804,126	48,097,702	56,227,870	73,374,588	82,356,342	91,859,116	106,181,075	120,561,594	119,334,992	119,194,739
Cash Flow to Investor (4,000,000)	15,119	178,558	370,579	594,338	1,311,620	1,480,413	4,809,770	5,622,787	7,337,459	8,235,634	9,185,912	10,618,107	12,056,159	11,933,499	11,919,474
IRR	35.6%														
Multiple	21.4x														

Key Achievements to Date

Castellan judiciously launched its investment program after the economic crisis allowing it to buy assets from distressed sellers who are financially burdened by highly leveraged and poorly managed assets acquired during the "bubble".

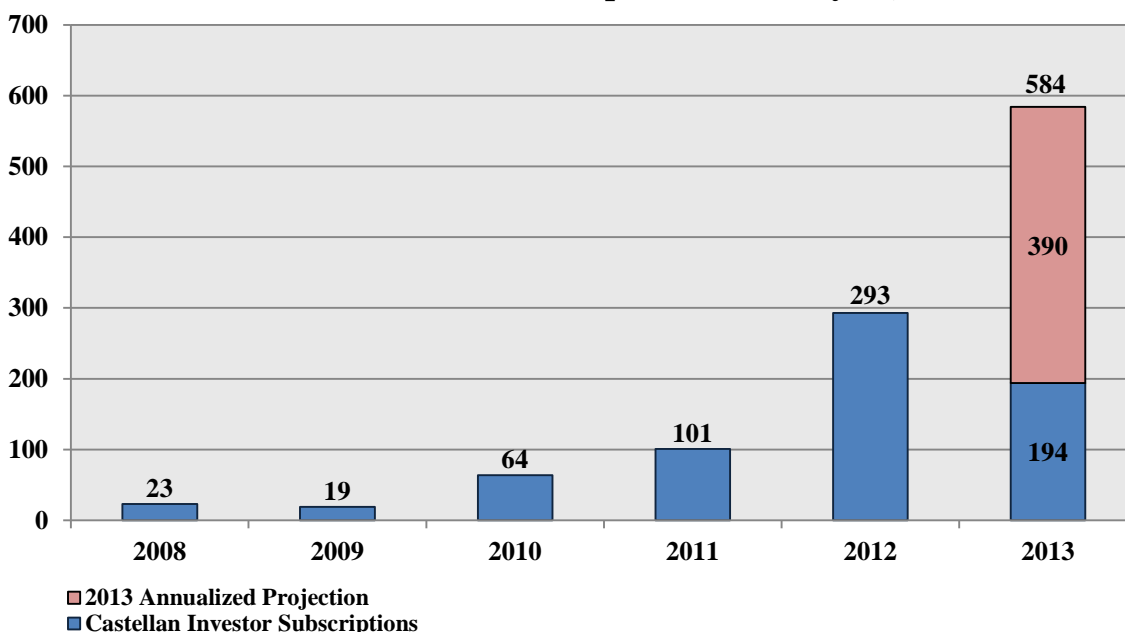
- Current operations are funded through acquisition and management fees. Therefore, the Company has no debt.
- Built a highly competent investment and property management team whose interests are aligned with that of ownership. Operating results since inception have exceeded projections. All acquisitions made prior to June 2011 have undergone or is in the process of being refinanced. This has and will result in earlier than expected liquidity to investors.
- Implemented Yardi Property Management software platform and developed key internal policies and procedures to enable continued efficiency as we scale our asset base. Recently, we added the Investor Management module which significantly improves reporting to investors.
- Bolstered relationships with active lenders in the New York City commercial real estate market resulting in favorable terms and quick turnaround times.
- Strengthened relationships with key New York State and city agencies such as The Department of Housing Preservation and Development, The Department of Buildings, The Department of Environmental Conservation, Northern Manhattan Improvement Corporation and The Harlem Development Corporation. We have already been awarded \$1.33MM in grants to improve the energy efficiency of our properties and expect

to obtain millions more across Castellan’s portfolio. Receipt of this grant money is a direct reflection of the strong relationships we have with these agencies as well as our ongoing commitment to the community.

- Developed a “back to basics” investment strategy that is simple to understand and convey to the investment community.
- Established an acquisition line which allows us to draw up to \$10MM of equity on short notice to pursue transactions without being constrained by the time required to secure debt financing and syndicate the equity portion in the transaction. This facility is repaid with the proceeds from syndication and allows Castellan to pursue a higher volume of transactions.
- Garnered significant interest from institutional capital sources who are interested in partnering with us on large transactions (\$50MM+) due to our unique competitive advantages.

To date, Castellan has brought on 240 individual and institutional investors. Of these investors, 57% committed additional capital to more than one offering. As deal flow increases, we will seek to widen our distribution capabilities in order to satisfy investor demand.

Castellan Investor Subscriptions as of May 15, 2013



Jumpstart Our Business Startup (JOBS) Act

Castellan is well positioned to capitalize on the passage of the JOBS Act, which has the potential to permanently alter the private placement landscape and the traditional methods in which fund sponsors market their offerings and raise capital.

- When the SEC completes the final rulemaking to implement Section 201(a) of the Jumpstart Our Business Startup (JOBS) Act in the coming months, sponsors of privately offered funds (such as private equity funds and hedge funds, among others) for the first time will be able to broadly market their private funds to the U.S. public through general solicitations and general advertisements (in effect, mass market capital raising campaigns). In a profound change, these activities will no longer disqualify fund managers from relying upon Regulation D to conduct private securities offerings exempt from the registration requirements that apply to initial public offerings.

- In addition, the SEC has recently confirmed that the JOBS Act also will permit private fund sponsors to publicly market their products using the types of general advertising campaigns more often associated with retail investment products without losing their ability to rely on the exclusions from the definitions of an “investment company” under Section 3(c)(1) and 3(c)(7) of the Investment Company Act.
- Although a number of the JOBS Act’s important details remain subject to final rulemaking by the SEC, most commentators believe that, taken together, the Act represents the most significant change in the regulation of private securities offerings since Regulation D was first adopted in 1982. Moreover, it is our belief that by emancipating fund sponsors from the SEC’s pre-JOBS Act marketing restrictions, the legislation carries with it the potential to fundamentally alter the manner in which investment managers raise capital for their private funds by creating new marketing and business opportunities that cannot yet be fully appreciated.

Castellan’s Current Fees and Carried Interest

The current fees and carried interest Castellan earns from its investment and property management business can be summarized as follows:

- From its fully invested private equity fund (Castellan NYC Partners LLC), Castellan earns 33.25% of cash flow after fund investors receive a 9% preferred return per annum and return of capital.
- From its deal-specific LLC offerings, Castellan typically earns 27.2% of cash flow after co-investors receive a 7% preferred return per annum and return of capital (net of compensation to placement agents and acquisition line provider).
- Castellan earns an acquisition fee of 1% of the purchase price of each property acquired.
- Liberty Place Property Management (“Liberty”), a wholly owned affiliate of the Company, earns a market rate fee of 5%-6% of collected rents on managed properties. Liberty may also perform leasing and other services with respect to the properties for a market rate fee.
- Broadway Total Construction LLC, a wholly owned affiliate of the Company, earns a market rate fee for any construction work performed on the properties.

Key Strategic Goals

As Castellan continues to widen the scope of its investment and management platform, the proceeds from this offering will be used, in part, to facilitate the following:

- Accelerate the pace of acquisitions by expanding the investment team.
- Augment the property management, maintenance and accounting departments to accommodate Castellan’s growing asset base.
- Increase negotiating leverage with vendors as we continue to expand our asset base.
- Add investor relations/business development personnel to ensure quality and frequency of communications with our growing investor base.

- Invest in Castellan’s technology infrastructure:
 - ✓ Improve quality of website to strengthen online presence.
 - ✓ Develop an investor portal as a single source of all Castellan due diligence information and reporting.
 - ✓ Simultaneously develop a tenant portal granting tenants the ability view their account history online, pay their rents electronically and submit work order requests through this system. Our leasing team will also use this system to actively list all apartment vacancies across Castellan’s portfolio.
- Expand Castellan’s capital distribution channels by fully leveraging our existing broker dealer relationships as well as developing new ones. To date this has not been a focus because demand for equity interests has exceeded our deal supply.

Representative Future Opportunities

As Castellan grows, it will be more efficient for us to internalize certain functions that are currently being outsourced. Due to the stable stream of business our portfolio generates, Castellan has been able to attract high quality personnel from some of the largest real estate investment managers. Strong back office, property management, investor relations and equity placement capabilities are highly desirable in the industry. Once we develop an infrastructure and technology platform large enough to service the Castellan portfolio, we may utilize these resources to generate low risk incremental income streams to the firm. Similar to what firms such as Blackstone and The Carlyle Group have done, we believe we can acquire equity stakes in other high quality investment managers in return for these services. Other representative opportunities may include:

- Preferred Equity Investments – Castellan can be a source of capital for other sophisticated operators in need of equity to co-invest alongside an institutional partner. In return, they are willing to share favorable promotes with us on the entire deal, resulting in significantly enhanced risk/reward characteristics for Castellan investors.
- Affordable Housing Development – This strategy generates very attractive upfront fees for developers, but is very labor intensive. Castellan has completed one development and can expand this strategy further with additional personnel in place.

APPENDIX A

Castellan Real Estate Partners is a real estate investment management firm that is focused primarily on New York metropolitan area multi-family and mixed-use assets. Castellan re-initiated its acquisition platform in 2009 to take advantage of the significant dislocations in the market caused by the financial crisis. Castellan believes that the market currently offers the opportunity to buy high quality assets from distressed sellers at compelling prices. The firm utilizes a “value added” investment philosophy that focuses on seeking properties which: (i) immediately provide positive cash flow; (ii) were poorly managed by previous ownership and have below market rents; (iii) can be acquired at significant discounts to replacement costs, providing a margin of safety; and (iv) can deliver significantly increased value through property enhancement and proactive asset management.

Key Biographies

Paul A. Salib

Mr. Salib is a Managing Principal of Castellan Real Estate Partners and is responsible for overseeing all aspects of the firm’s investments and operations. Mr. Salib is also an Assistant Adjunct Professor at the Schack Real Estate Institute at New York University.

Previously, Mr. Salib was a Senior Vice President at Red Stone Partners, where he was involved in the acquisition and financing of over \$1 billion in commercial real estate transactions. Mr. Salib was primarily responsible for performing valuation analysis, due diligence and closing of the transactions.

Mr. Salib received a Bachelor of Science in Finance from Syracuse University and received his Masters degree in Real Estate Finance and Investment from New York University.

John B. Salib

Mr. Salib is a Managing Principal of Castellan Real Estate Partners and is responsible for overseeing all aspects of the firm’s investments and operations. Mr. Salib began his career at Salomon Smith Barney in New York, where he focused on fixed income finance, real estate acquisition finance and mortgage securitization. Mr. Salib was a member of transaction teams that originated and / or securitized approximately \$3 billion of debt financing for a variety of commercial and residential real estate clients.

Mr. Salib was subsequently a member of the Salomon Smith Barney team in Tokyo, focusing on debt origination / securitization and distressed debt acquisitions from Japanese financial institutions. Mr. Salib was primarily responsible for performing valuation analysis and due diligence on potential acquisition / financing candidates.

Mr. Salib is also a founder of Landmark Advisors LLC, a value oriented alternative investment management firm.

Mr. Salib received a Bachelor of Arts from Colgate University and a Masters of Business Administration from Columbia Business School.

Rick Serrapica

Mr. Serrapica is Castellan’s Chief Operating Officer and brings more than 30 years of experience managing various asset classes including commercial, residential, retail and industrial properties.

Prior to joining Castellan, Mr. Serrapica was a Partner at Broadway Partners, a real estate owner/operator with overall responsibility of managing a national portfolio comprised of twenty eight assets. Prior to Broadway, Mr. Serrapica was Regional Director of Construction and Property Management at Shoreinsein Realty Services, one of the country’s largest real estate owner/operators. Prior thereto, he was Senior Vice President as well as Director of Construction and Property Management for SL Green Realty Corp. He has held similar positions at the Swig, Weiler and Arnow Management Co., Cross and Brown and Chase Manhattan Bank.

Rick received a Bachelor of Science and a Masters of Business Administration from Long Island University. He is a Registered Property Administrator and a Certified EPA Project Designer.

Stella Lee

As the Chief Financial Officer of Castellan Real Estate Partners, Ms. Lee directs every aspect of the firm's financial functions and controls.

Prior to Castellan, Ms. Lee was Portfolio Controller at Vantage Properties. There, Ms. Lee was responsible for financial control and management, financial reporting, treasury, budgeting, leasing and compliance for a portfolio of 8,000+ residential units as well as 150+ retail and commercial units. Prior to Vantage, Ms. Lee was Asset Manager at Murray Hill Properties where she supported the Principal in the acquisition, asset management and financial operation of a Class-A office portfolio totaling 3.6 million square feet. Prior to Murray Hill, Ms. Lee held a similar role at Jones Lang Lasalle, where she oversaw the financial operation of Class A office portfolios for clients including Dai-ichi and Lend Lease Group.

Ms. Lee began her career at the China International Trust and Investment Corporation (CITIC), the preeminent investment bank in China. Ms. Lee conducted investment consulting on economic development zones as well as feasibility studies on several major real estate and infrastructure projects sponsored by the World Bank and the United Nations.

Ms. Lee received a Bachelor of Science from Tsinghua University and a Masters of Business Administration in Finance from the State University of New York at Buffalo.

Mike Kim

Mr. Kim is Director of Investor Relations for Castellan Real Estate Partners. His primary responsibilities include investor correspondence, oversight of the investor subscription process, quarterly and annual reporting, product development and marketing.

Previously, Mr. Kim spent three years as an independent consultant where he raised capital and marketed several private real estate offerings. Prior to that, he was Director of Investor Relations for Gemini Real Estate Advisors, a NYC based real estate investment manager specializing in retail and hospitality assets.

Mr. Kim began his career at Credit Suisse where he worked in various capacities including compliance, fund accounting and investor relations for the firm's real estate private equity practice, DLJ Real Estate Capital Partners.

Mr. Kim received a Bachelor of Arts in Political Science from the University of Vermont.

The organizational chart below is representative of the Company's personnel as of the 2nd quarter of 2013.

PARTNERS		
JOHN SALIB <i>MANAGING PRINCIPAL</i>		PAUL SALIB <i>MANAGING PRINCIPAL</i>
CASTELLAN REAL ESTATE PARTNERS		LIBERTY PLACE PROPERTY MANAGEMENT
Acquisitions Paulius Skema <i>Analyst</i>	Investor Relations Mike Kim <i>Director of Investor Relations</i>	Finance Stella Lee <i>Chief Financial Officer</i>
Etan Slomovic <i>Analyst</i>		Ivaylo Ninov <i>Controller</i>
		Edwin Villanueva <i>Staff Accountant</i>
		Cassandra Monroig <i>Office Manager</i>
		Property Management Rick Serrapica <i>Chief Operating Officer</i>
		Clara Rivera <i>Director of Operations</i>
		Property Managers Rosario Ruiz - <i>Sr. Property Manager</i> Miguel Rivera - <i>Sr. Property Manager</i> Eric Santiago - <i>Property Manager</i> Steven Tannen - <i>Property Manager</i> Leo Rodriguez - <i>Property Manager</i>
		Leasing Martha Lopez - <i>Leasing Director</i> Sam Ackerman - <i>Lease Administrator</i>
		Collections Yomari Colon - <i>Legal Coordinator</i> Carlos Bernal - <i>Collections Manager</i>
		Construction and Maintenance Jaime Baez - <i>Field Director</i> Emmett Mitchell - <i>Field Manager</i> Brian Chiusano - <i>Project Manager</i>

Investment Objectives

- Asymmetric risk/return profile
- Stable current income and capital appreciation
- Growing cash yields
- Prudent use of leverage
- Value creation through property enhancement and proactive asset management
- Target long run IRR of 15%-20%+
- Inflation hedge
- Low correlation to other investment classes

Property Investment Thesis

Fully Integrated Real Estate Platform. Castellan's fully integrated operating platform encompasses acquisition, construction, leasing and property management capabilities. Castellan has extensive experience in all real estate disciplines including construction, budgeting, forecasting, engineering, property and asset management.

Compelling Market Opportunity. Values of multi-family and mixed use properties in New York City are down as much as 40% since 2007, yet underlying property level fundamentals remain very strong. Due to the wave of mortgage maturities occurring over the next few years, we expect continued forced selling by owners and lenders that transacted at peak level pricing, providing for a once in a generation type of opportunity to buy quality assets at distressed prices.

Property Level Fundamentals Remain Strong. New York City is a supply constrained market that has experienced a decline in affordable housing over the last 20 years. Vacancy rates continue to be very low, and market rents have remained resilient through the economic crisis. The decline in property prices is due more to leverage and capital markets problems as opposed to underlying property level fundamentals.

Established Investment Platform. Castellan and its principals currently own and manage approximately 1.6 million square feet of residential, mixed-use, office and hotel properties, the vast majority of which consists of Manhattan residential properties. More importantly, the principals of Castellan (through its family business) were not active buyers of property through the 2000s. Therefore, the resources of the firm are not dedicated to dealing with highly leveraged and financially distressed assets acquired during the peak valuations of 2004-2007. Castellan has a large supply of “dry powder” to deploy at the much lower valuations available today. The properties Castellan seeks to acquire are often located within a radius of a few blocks of properties in which we already have a presence, so as local operators, we know these markets very well.

Deal Sourcing. Castellan, through its relationships and reputation in the New York City market, has a significant competitive advantage in securing deals from sellers that value certainty of execution. Its ability to close transactions quickly is particularly important in sourcing assets at favorable valuations given today’s difficult capital markets environment. Castellan’s broad network of industry contacts enables the sponsor to source private market transactions, promoting a strong pipeline of deal flow.

Banking Relationships. Castellan maintains long standing relationships with many of the leading regional banking institutions lending in the greater New York City area. These relationships facilitate quick loan response and a high certainty of execution. This is especially important in a tight credit environment, in which many banks are only lending to existing clients. Additionally, Castellan has sourced transactions through these relationships as banks have sold defaulted loans and properties acquired through foreclosure.

Value Enhancement. Castellan focuses on assets that have significantly below market rents due to mismanagement by previous owners. Castellan proactively manages, recapitalizes and repositions assets with the objective of raising rents toward market levels and increasing net operating income, thus making the return profile less dependent on overall real estate market conditions. Compliance with New York City rent regulations is onerous and requires experience and expertise with the system to maximize efficiency. Castellan and its affiliates have over 25 years of experience in the process of legally raising rents in New York City.

Middle Market Niche. Castellan targets mid-sized properties generally between \$5 million and \$20 million and will avoid highly competitive auctions. Castellan focuses on transactions either through off market private negotiated deals or other situations with limited competition. Properties in this size range are generally too large for individual investors, eliminating aggressive speculation, and too small for institutional investors, eliminating increased competition.

Government Sponsored Programs. Castellan continues to take advantage of certain programs backed by funding from federal and states governments that provide tax credits, grants or low cost debt financing. These programs are designed to provide incentives to real estate owners to renovate buildings, preserve affordable rental housing or make buildings more energy efficient. These programs can materially enhance investor returns. For example, Castellan has secured funding from Northern Manhattan Improvement Corporation and Harlem Community Development Corporation that has a weatherization program that provides grants for up to 75% of the cost of making buildings more energy efficient, reducing energy costs and increasing net operating income.

New York City Market Advantages

Global Competitiveness

The Economist recently conducted a study to develop a “Global City Competitiveness Index”. The main factors they considered were economic size and growth, business and regulatory environment and the quality of human capital and overall lifestyle. New York and London ranked number 1 & 2 respectively. The quality of its educational systems, its strong infrastructure, the entrepreneurial mindset of its residents as well as cultural diversity are the driving forces in attracting the world’s top talent.

Economic Recovery

The economy has begun to recover and unemployment has started to decline, spurring demand for rental housing. The New York City Independent Budget Office estimated that the city will add approximately 430,000 jobs between 2011 and 2016. An increasing number of start-up firms are choosing NYC as their base of operations, propelling job growth in the technology sector and investment from venture capitalists.

Population Growth and Migration

The US population is projected to increase from 308 million to 438 million by the year 2050. Over 82% of that increase will be attributable to immigrants and their US born descendants. NYC will continue to serve as a major immigration hub for these newcomers fueling increased demand for rental units.

Lack of New Multi-family Product

Development activity in the city is significantly lower than pre-recession levels, with little supply planned for the market in the medium term. The city’s Department of Buildings issued permits for only 8,936 new residential units in 2011. This represents a 74% drop from the 33,911 permits issued in 2008.

Tight Vacancy Rates

New York City continues to maintain one of the tightest vacancy rates in the country (approximately 1.4%) as demand for apartments continues to be strong across all rent levels.

Castellan’s Investment Summary

- Since 2009 Castellan has completed 16 transactions with an additional 3 under contract.
- The Portfolio (including buildings under contract) is comprised of 38 buildings, 1,289 residential units, 46 retail units and 958,785 square feet.
- The properties were acquired at an average price of \$92,844 per unit and \$138 per square foot.
- The aggregate investment into the portfolio is approximately \$169.7MM, of which approximately \$73.7MM is equity and approximately \$96.0MM is fixed rate debt.
- The portfolio is conservatively leveraged with a current loan to capital ratio of 57%. The weighted average interest rate on our debt was 3.923% at acquisition.
- The following table only represents Castellan’s multi-family rental portfolio and does not include the following investments which are also included in the offering:

The Hotel Modern

Castellan acquired an equity stake in this 135 room boutique hotel located in the fashionable warehouse district of New Orleans, LA. The hotel recently completed an extensive renovation project and is poised for significant NOI growth in the coming year.

Wangjiao Plaza

Castellan formed a special purpose entity in Hong Kong to acquire a 7,582 square foot Grade-A office suite in the central business district of Shanghai, China. The property is currently listed for sale and we expect to successfully exit this investment in the coming year.

2 Osborne Terrace

On April 29, 2011 the Fund acquired 2 Osborne Terrace in Newark, New Jersey for \$2.025MM. This property is a 5 story elevator building with 51 residential, 9 retail units and a total of 57,000 square feet. As part of a deal to preserve affordable housing in the city of Newark, this long term fixed rate debt through the New Jersey Home Mortgage and Finance Agency (NJHMFA) is a very valuable finance package given the potential for higher inflation levels in the future. The property has undergone a complete gut renovation and we have begun lease-up of the property.

Portfolio Summary as of May 15, 2013 (1)

Transaction	# of Bldgs	Purchase Price	Total Capital (3)	Equity Contribution	Acquisition Debt	Loan Cap	Interest Rate	Term (Years)	Res. Units	Ret. Units	Sq. Ft.	Purchase Price Per Unit	Sq. Ft.
1 CRP West 141st Street LLC	1	\$1,570,000	\$2,075,000	\$600,000	\$1,475,000	71%	5.750%	7	30	0	10,770	\$52,333	\$146
2 CRP Sherman Avenue LLC	1	\$6,550,000	\$7,475,000	\$3,175,000	\$4,300,000	58%	5.750%	7	93	0	55,920	\$70,430	\$117
3 CRP 111 West 141st LLC	1	\$4,000,000	\$4,875,000	\$1,500,000	\$3,375,000	69%	4.750%	7	59	0	26,165	\$67,797	\$153
4 CRP West 168th Street LLC	1	\$6,275,000	\$7,362,500	\$2,750,000	\$4,612,500	63%	4.875%	7	84	0	40,185	\$74,702	\$156
5 CRP Uptown Portfolio Investors LLC	4	\$6,130,000	\$9,350,000	\$2,750,000	\$6,600,000	71%	4.305%	7	101	0	61,636	\$60,693	\$99
6 CRP Uptown Portfolio II LLC	2	\$5,375,000	\$6,531,250	\$2,725,000	\$3,806,250	58%	4.875%	7	46	4	41,989	\$92,672	\$128
7 CRP Amsterdam LLC	1	\$5,600,000	\$6,950,000	\$3,200,000	\$3,750,000	54%	4.000%	7	57	8	41,835	\$69,136	\$135
8 CRP Uptown Portfolio III LLC	2	\$3,010,000	\$4,057,500	\$1,670,000	\$2,387,500	59%	4.375%	7	40	4	27,144	\$57,885	\$111
9 CRP Frederick Douglass LLC	2	\$3,950,000	\$4,950,000	\$2,050,000	\$2,900,000	59%	4.250%	7	26	8	26,914	\$79,000	\$147
10 CRP 482 Riverdale Avenue LLC	1	\$4,175,000	\$5,330,000	\$2,200,000	\$3,130,000	59%	4.125%	7	43	3	36,000	\$80,288	\$116
11 CRP Arden LLC	1	\$5,250,000	\$6,500,000	\$3,030,000	\$3,470,000	53%	3.875%	7	63	0	31,095	\$83,333	\$169
12 CRP Fairworth LLC	3	\$9,350,000	\$11,740,000	\$5,600,000	\$6,140,000	52%	3.500%	5-7	94	0	72,676	\$99,468	\$129
13 CRP St. Nicholas York LLC	2	\$9,045,000	\$11,525,000	\$5,275,000	\$6,250,000	54%	3.590%	5-7	88	1	68,290	\$99,396	\$132
14 CRP 184th St. Nicholas LLC	3	\$9,580,000	\$12,003,750	\$5,150,000	\$6,853,750	57%	3.550%	7	63	5	56,250	\$122,821	\$170
15 CRP Fifth Avenue LLC	4	\$12,775,000	\$16,460,000	\$8,000,000	\$8,460,000	51%	3.500%	7	93	3	83,560	\$125,245	\$153
16 CRP Broadway LLC	4	\$14,453,500	\$18,200,000	\$8,730,000	\$9,470,000	52%	3.500%	7	129	4	89,230	\$102,507	\$162
17 CRP 117-137 West 141st Street LLC (2)	3	\$20,300,000	\$27,825,000	\$12,600,000	\$15,225,000	55%	3.250%	7	144	0	156,870	\$140,972	\$129
18 2408 Clarendon Rd. (2)	1	\$1,400,000	\$1,975,000	\$1,000,000	\$975,000	49%	3.500%	7	16	0	12,960	\$87,500	\$108
19 665 Lenox Ave. (2)	1	\$3,700,000	\$4,475,000	\$1,700,000	\$2,775,000	62%	3.500%	7	20	6	19,296	\$97,368	\$192
Total	38	\$132,488,500	\$169,660,000	\$73,705,000	\$95,955,000	57%	3.923%		1,289	46	958,785	\$92,844	\$138

(1) All amounts in US Dollars and unaudited. The information contained herein has been prepared solely for informational purposes and does not constitute an offer to buy or sell or a solicitation of an offer to buy or sell any interests. If any offer of interests is made, it shall be pursuant to a definitive offering memorandum prepared by or on behalf of the company, which would contain material information not contained herein and which would supersede this information in its entirety. The performance data quoted represents past performance; past performance does not guarantee future results; the investment return and principal value of an investment will fluctuate so that an investor's interest, when redeemed, may be worth more or less than its original cost; and current performance may be lower or higher than the performance data quoted.

(2) Currently under contract.

(3) Total Capital is the total deal size, which includes the purchase price, closing costs, capital expenditures and other reserves.

Castellan's Value Creation Summary

- Demonstrated ability to significantly increase rents in a cost efficient manner.
- Since 2009 Castellan has renovated and re-leased 272 of 1,335 units across the portfolio.
- The average rent increase on those units has been 26.8%; an 11.0% overall rent roll increase.
- Average ROI on capital expenditures to obtain increased rent has been 27.4%.
- Obtained weatherization grants of approximately \$1.33MM to date with more pending.

Value Creation Summary as of May 15, 2013 (1)

Transaction	Acquisition Date	Units Renovated and Re-leased		Annualized Turnover Rate (2)	Avg Rent Increase on Turned Units	Rent Roll at Acquisition	Current Rent Roll	Rent Roll % Increase (3)	Capital Expenditures	ROI (4)	Weatherization Grant Approval	Total Cash Distributions Made to Date	Cash Distrib. As % of Equity (1,5)
		Since Acquisition	Total # of Units										
1 CRP West 141st Street LLC	2/17/09	28	30	22.2%	51.0%	\$280,121	\$407,051	45.3%	\$345,402	36.7%	\$145,890	\$712,090	118.7%
2 CRP Sherman Avenue LLC	2/17/10	42	93	14.1%	35.2%	\$951,937	\$1,221,186	28.3%	\$720,020	37.4%	\$396,000	\$1,998,951	63.0%
3 CRP 111 West 141st LLC	8/15/10	40	59	25.0%	43.7%	\$571,689	\$812,849	42.2%	\$537,259	44.9%	\$213,232	\$983,977	65.6%
4 CRP West 168th Street LLC	9/15/10	50	84	22.7%	24.4%	\$882,378	\$1,086,125	23.1%	\$556,762	36.6%	\$400,000	\$1,750,157	63.6%
5 CRP Uptown Portfolio Investors LLC (2)	12/29/10	47	101	19.9%	5.2%	\$1,435,173	\$1,451,452	1.1%	\$1,122,954	1.4%	Pending	\$264,580	9.6%
6 CRP Uptown Portfolio II LLC	5/14/11	15	50	15.3%	40.3%	\$686,237	\$833,143	21.4%	\$461,068	31.9%	\$175,679	\$1,183,638	43.4%
7 CRP Amsterdam LLC	11/28/11	9	65	11.7%	29.2%	\$745,947	\$818,912	9.8%	\$384,142	19.0%	Pending	\$288,402	9.0%
8 CRP Uptown Portfolio III LLC	2/8/12	10	44	18.6%	9.1%	\$484,896	\$517,520	6.7%	\$251,858	13.0%	Pending	\$132,979	8.0%
9 CRP Frederick Douglass LLC	2/28/12	6	34	19.0%	16.0%	\$546,444	\$567,035	3.8%	\$109,166	18.9%	Pending	\$151,324	7.4%
10 CRP 482 Riverdale Avenue LLC	4/27/12	9	46	19.4%	13.9%	\$656,879	\$692,077	5.4%	\$162,074	21.7%	Pending	\$134,812	6.1%
11 CRP Arden LLC	8/7/12	9	63	29.3%	16.7%	\$711,037	\$760,656	7.0%	\$121,986	40.7%	Pending	\$135,267	4.5%
12 CRP Fairworth LLC	10/2/12	4	94	7.4%	29.4%	\$1,087,956	\$1,145,381	5.3%	\$114,913	50.0%	Pending	\$192,151	3.4%
13 CRP St. Nicholas York LLC	11/15/12	1	89	2.5%	2.3%	\$1,029,975	\$1,065,825	3.5%	\$52,518	68.3%	Pending	\$136,906	2.6%
14 CRP 184th St. Nicholas LLC	1/16/13	1	68	5.2%	49.4%	\$1,043,884	\$1,054,008	1.0%	\$17,943	56.4%	Pending	\$72,462	1.4%
15 CRP Fifth Avenue LLC	3/7/13	1	96	7.0%	36.2%	\$1,335,333	\$1,384,771	3.7%	\$26,094	189.5%	NA	NA	NA
16 CRP Broadway LLC	4/9/13	0	133	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
17 CRP 117-137 West 141st Street LLC	Contract	NA	144	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
18 2408 Clarendon Rd.	Contract	NA	16	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
19 665 Lenox Ave.	Contract	NA	26	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total		272	1,335	16.0%	26.8%	\$12,449,886	\$13,817,992	11.0%	\$4,984,159	27.4%	\$1,330,801	\$8,137,697	11.0%

(1) All amounts in US Dollars and unaudited. The information contained herein has been prepared solely for informational purposes and does not constitute an offer to buy or sell or a solicitation of an offer to buy or sell any interests. If any offer of interests is made, it shall be pursuant to a definitive offering memorandum prepared by or on behalf of the company, which would contain material information not contained herein and which would supersede this information in its entirety. The performance data quoted represents past performance; past performance does not guarantee future results; the investment return and principal value of an investment will fluctuate so that an investor's interest, when redeemed, may be worth more or less than its original cost; and current performance may be lower or higher than the performance data quoted. The Manager's projections of IRRs and Equity Multiples are based on good faith estimates of property value and are not representations or guarantees of the amounts for which the properties could be sold. The actual amounts may be greater or lesser than the Manager's estimates, which would result in higher or lower actual realized proceeds, IRRs, and Equity Multiples.

(2) Total calculation includes deals 1 to 15. Deal 16 is a recent acquisition. Deals 17 to 19 are currently under contract.

(3) Total calculation includes deals 1 to 15. Deal 16 is a recent acquisition. Deals 17 to 19 are currently under contract.

(4) ROI of Capital Expenditure = Annual Rent Increase / Capital Expenditure. Total calculation includes deals 1 to 15. Deal 16 is a recent acquisition. Deals 17 to 19 are currently under contract.

(5) Represents cumulative cash proceeds to investors as percentage of their capital contributions.

Representative Buildings in Castellan's Portfolio



545 West 148th Street



1315 St. Nicholas Avenue



29-31-33 Arden Avenue



2372-2374-2376
Amsterdam Avenue



515 West 168th Street



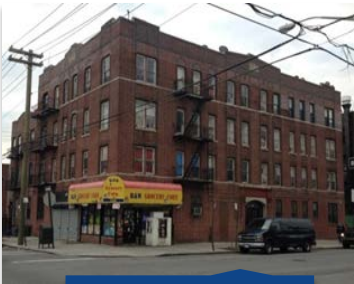
111 West 141st Street



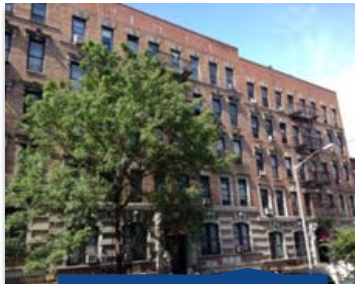
295 West 150th Street



2655 Frederick Douglass
Boulevard



510 Riverdale Avenue



516-520 West 156th Street



85 Fairview Avenue



120-124-128 Sherman
Avenue

CASTELLAN HOLDINGS LLC
(a Delaware limited liability company)

SUBSCRIPTION AGREEMENT

ACCREDITED INVESTORS ONLY

THE SECURITIES SUBSCRIBED FOR PURSUANT TO THIS SUBSCRIPTION AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND TRANSFER OF THE SECURITIES IS RESTRICTED BY SUCH LAWS AND THE TERMS OF THIS SUBSCRIPTION AGREEMENT AND THE OPERATING AGREEMENT OF CASTELLAN HOLDINGS LLC NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY OTHER FEDERAL OR STATE AGENCY OR AUTHORITY HAS PASSED ON, RECOMMENDED, OR ENDORSED THE MERITS OF THIS OFFERING. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

THIS INVESTMENT INVOLVES A SUBSTANTIAL DEGREE OF RISK. YOU SHOULD CAREFULLY REVIEW AND CONSIDER THE RISK FACTORS IN EXHIBIT B ANNEXED HERETO TOGETHER WITH THE OTHER INFORMATION CONTAINED IN THE WRITTEN MATERIALS FURNISHED TO YOU BEFORE MAKING ANY INVESTMENT DECISION.

SUBSCRIPTION AGREEMENT

This Subscription Agreement ("Agreement") is made as of the ____ day of _____, 2013, by and between CASTELLAN HOLDINGS LLC, a Delaware limited liability company (the "Company"), and the undersigned (the "Subscriber"). Capitalized terms used herein, unless otherwise defined herein, shall have the meaning ascribed to them in the Operating Agreement of the Company (the "Operating Agreement"). A copy of the Operating Agreement is annexed hereto as Exhibit A.

BACKGROUND

Upon the terms and conditions set forth in this Agreement, the Company desires to sell to the Subscriber, and the Subscriber desires to purchase and acquire from the Company a membership interest (the "Membership Interest") in the Company for a contribution to the capital of the Company as provided herein.

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby and in consideration of the premises and mutual representations, warranties, covenants, agreements and conditions set forth in this Agreement, agree as follows:

1. Subscription. The Subscriber hereby subscribes for and agrees to purchase from the Company, and the Company hereby agrees to sell to the Subscriber, the Membership Interest for the consideration and upon such terms and conditions as set forth herein.

2. Closing. The closing of the sale of the Membership Interest shall take place at the offices of the Company upon the acceptance by the Company of this Agreement and the contribution to the capital of the Company in the amount provided for in Section 3 (the "Closing").

3. Payment; Percentage Interest. At the Closing, the Subscriber shall contribute to the Company in consideration for the Membership Interest by delivery to the Company of immediately available funds in the aggregate amount of _____ Thousand Dollars and 00/100 (\$_____). The Membership Interest, on the date hereof, shall represent a percentage interest equal to _____ percent.

4. Representations and Warranties. The Subscriber hereby represents, warrants and agrees, as follows:

(a) (i) The Subscriber is purchasing the Membership Interest for investment purposes only for the account of the Subscriber and not with any view toward the distribution or resale thereof; and (ii) the Subscriber has no contract, undertaking, agreement or arrangement with any person to sell, transfer or pledge to such person or anyone else the Membership Interest, and the Subscriber has no present plans to enter into any such contract, undertaking, agreement or arrangement.

(b) The Subscriber has sufficient financial resources available to support the loss of all or a portion of the Subscriber's investment in the Membership Interest, can afford a complete loss of the investment in the Membership Interest, can afford to hold the investment in the Membership Interest for an indefinite period of time and is able to bear the economic risk of the investment.

(c) The Subscriber has such knowledge and experience in financial and business matters that the Subscriber is capable of evaluating the merits and risks of the Subscriber's investment in the Membership Interest and is able to bear such risks, and has obtained, in the Subscriber's judgment, sufficient information from the Company or its authorized representatives to evaluate the merits and risks of such investment. The Subscriber has

evaluated and understands the risks (including, without limitation, those set forth on Exhibit B annexed hereto) of investing in the Membership Interest and has determined that the Membership Interest is a suitable investment for the Subscriber. The Subscriber has not utilized any other person as a Purchaser Representative (as defined in Rule 501(h) of Regulation D under the Securities Act of 1933, as amended (the “Securities Act”)) in connection with evaluating such merits and risks, or if it has, _____ (*Insert name of Purchaser Representative; if no name is inserted, the Subscriber is representing and warranting that the Subscriber has not utilized a Purchaser Representative*) has acted as the Subscriber’s Purchaser Representative in connection with evaluating the merits and risks of an investment in the Company in general and the suitability of the investment for the Subscriber in particular, and such Purchaser Representative has completed a Purchaser Representative Questionnaire. (A Purchaser Representative Questionnaire may be obtained from the Company).

(d) The Subscriber is an “accredited investor” (as defined in Rule 501(a) of Regulation D under the Securities Act) in that (please check **ONE** of the following):

_____ (i) The Subscriber is an individual and either has an individual net worth, or with the Subscriber’s spouse has a combined net worth, in excess of \$1,000,000 (for purposes of this representation and warranty, “net worth” means the excess of total assets at fair market value (excluding the value of Subscriber’s primary residence) over total liabilities);

_____ (ii) The Subscriber is an individual and had individual income (exclusive of any income attributable to the Subscriber’s spouse) of more than \$200,000 for the past two years or joint income with any spouse in excess of \$300,000 in each of those years and reasonably expects to reach the same income level in the current year;¹

_____ (iii) The Subscriber is a corporation, foundation, endowment, or partnership (including a limited liability company), with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered;

_____ (iv) The Subscriber is a corporation, foundation, endowment, or partnership (including a limited liability company) that is an accredited investor because all of its equity owners are accredited investors; or

_____ (v) The Subscriber is a trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Rule 506(b)(2)(ii) of Regulation D of the Securities Act.

By signing this Agreement, the Subscriber hereby covenants to promptly advise the Company if at any time there shall occur a change in the Subscriber’s accredited investor status.

(e) The Subscriber’s principal residence or, if Subscriber is an entity, principal place of

¹ For purposes of this Agreement, individual income means adjusted gross income, as reported for federal income tax purposes, less any income attributable to a spouse or to property owned by a spouse, increased by the following amounts (but not including any amounts attributable to a spouse or to property owned by a spouse): (i) the amount of any tax-exempt interest income under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), received; (ii) the amount of losses claimed as a limited partner in a limited partnership as reported on Schedule E of Form 1040; (iii) any deduction claimed for depletion under Section 611 *et seq.* of the Code; (iv) amounts contributed to an Individual Retirement Account (as defined in the Code) or Keogh retirement plan; (v) alimony paid; and (vi) any elective contributions to a cash or deferred arrangement under Section 401(k) of the Code.

business, is at the address shown on the signature page of this Agreement, at which address the Subscriber has subscribed for the Membership Interest, and the Subscriber's name, address and social security number or taxpayer identification number, as applicable, set forth on the signature page of this Agreement are true, correct and complete.

(f) The Subscriber has the full power and authority to execute, deliver and perform its obligations under this Agreement. The Subscriber's execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereby, will not: (i) in the case of any Subscriber that is not a natural person, conflict with or result in a breach of any provision of the organizational documents of such Subscriber; (ii) with or without the passage of time, the giving of notice or both, constitute or result in a breach or default under or conflict with any order, ruling, judgment, writ, decree or regulation of any court or other tribunal or of any governmental commission or agency, or any agreement, instrument or other undertaking, to which the Subscriber is a party or by which the Subscriber is bound; or (iii) require the Subscriber to obtain any consent, approval or action of, make any filing with, or give any notice to any person or entity as a result or under the terms of, or relieve any third party of any obligation to the Subscriber under any such order, ruling, judgment, writ, decree, regulation, agreement, instrument or other undertaking. The signature on this Agreement is genuine, and the signatory has legal competence and capacity to execute the same and this Agreement constitutes a legal, valid and binding obligation of the Subscriber, enforceable in accordance with its terms.

(g) The funds contributed (or to be contributed) by the Subscriber to the Company were not, directly or indirectly, derived from activities that may contravene any federal, state or international laws and regulations, including anti-money laundering laws and regulations.

(h) The Subscriber is not engaged in any activity, directly or indirectly: (i) in contravention of any United States, international or other applicable laws and regulations, including anti-money laundering laws and regulations; (ii) on behalf of terrorists, terrorist organizations, or other criminal organizations; (iii) on behalf of any country, territory, person or entity identified on the List of Specially Designated Nationals and Blocked Persons maintained by the United States Treasury Department's Office of Foreign Asset Control ("OFAC"), as such list may be amended from time to time²; (iv) for a senior foreign political figure, any member of a senior foreign political figure's immediate family or any close associate of a senior foreign political figure³; or (v) a foreign shell bank⁴(such persons or entities identified in (i) – (v) are collectively referred to as "Prohibited Persons").

(i) (i) The Subscriber is not, nor is any person or entity controlling, controlled by or under common control with the Subscriber, a Prohibited Person; and (ii) to the extent the Subscriber has any beneficial owners⁵, (A) it has carried out thorough due diligence to establish the identities of such beneficial owners, (B) it

2 A current copy of this list is available on OFAC's web site at <http://www.treas.gov/ofac>.

3 Senior foreign political figure means a senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned corporation. In addition, a senior foreign political figure includes any corporation, business or other entity that has been formed by, or for the benefit of, a senior foreign political figure. The immediate family of a senior foreign political figure typically includes the political figure's parents, siblings, spouse, children and in-laws. A close associate of a senior foreign political figure is a person who is widely and publicly known internationally to maintain an unusually close relationship with the senior foreign political figure, and includes a person who is in a position to conduct substantial domestic and international financial transactions on behalf of the senior foreign political figure.

4 Foreign shell bank means a foreign bank without a physical presence in any country, but does not include a regulated affiliate. A post office box or electronic address would not be considered a physical presence. A regulated affiliate means a foreign shell bank that: (1) is an affiliate of a depository institution, credit union, or foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and (2) is subject to supervision by a banking authority in the country regulating such affiliated depository institution, credit union, or foreign bank.

5 Beneficial owners include, but are not limited to: (i) shareholders of a corporation; (ii) partners of a partnership; (iii) members of a limited liability company; (iv) investors in an investment fund, including indirect investors in a fund-of-

reasonably believes that no such beneficial owners are Prohibited Persons, (C) it holds the evidence of such identities and status and will maintain all such evidence for at least five years from the date of the Subscriber's complete redemption from the Company, and (D) it will make available such information and any additional information that the Company may reasonably require upon request.

(j) The Subscriber acknowledges and agrees that the Company may "freeze the account" of the Subscriber, including, but not limited to, prohibiting additional commitments, declining any withdrawal requests and/or segregating the Membership Interest, in compliance with governmental regulations.

(k) The Subscriber is not relying on the Company or the management of the Company with respect to any legal, investment or tax considerations involved in the purchase, ownership and disposition of the Membership Interest. The Subscriber has relied solely upon the advice of, or has consulted with, in regard to the legal, investment and tax considerations involved in the purchase, ownership and disposition of the Membership Interest, the Subscriber's legal counsel, business and/or investment adviser, accountant and tax adviser.

(l) A copy of the Operating Agreement is annexed hereto as Exhibit A. The Subscriber has read and understands the provisions of the Operating Agreement.

5. Acknowledgements and Covenants. The Subscriber acknowledges and agrees that:

(a) No federal or state agency has passed on, recommended or endorsed the merits of the Membership Interest or this offering or made any findings or determination as to the fairness of this investment.

(b) The Membership Interest has not been registered under the Securities Act or any applicable state securities laws by reason of exemptions from the registration requirements of the Securities Act and such laws, and the Membership Interest may not be sold, transferred, assigned, pledged or hypothecated or otherwise disposed of, in whole or in part, in the absence of an effective registration statement applicable thereto under the Securities Act and all applicable state securities laws, or unless an exemption from such registration is available.

(c) The Subscriber agrees and understands that the Subscriber will not sell, transfer, assign or otherwise dispose of the Membership Interest or any interest therein unless and until the Subscriber: (i) complies with all applicable requirements of federal and state securities laws and the Operating Agreement; and (ii) in the absence of an effective registration statement, provides the Company with an opinion of counsel which is satisfactory to the Company (both as to the issuer of the opinion and the form and substance thereof) that the Membership Interest may be sold, transferred, assigned, pledged, hypothecated or otherwise disposed of without registration under the Securities Act, and without violation of any applicable state securities laws (including any investor suitability standards).

(d) The Subscriber is aware that: (i) the Company is a recently formed, development stage company, has no meaningful financial and operating history, and has no marketable product or sales; (ii) an investment in the Company involves a high degree of risk of total loss of investment incidental to the purchase of the Membership Interest; (iii) there is lack of liquidity and substantial restrictions on transferability of the Membership Interest or any other interest in the Company; and (iv) Members' respective Membership Interests,

funds; (v) the grantor of a revocable or grantor trust; (vi) the beneficiaries of an irrevocable trust; (vii) the individual who established an IRA; (viii) the participant in a self-directed pension plan; (ix) the sponsor of any other pension plan; and (x) any person being represented by the Subscriber in an agent, representative, intermediary, nominee or similar capacity. If the beneficial owner is itself an entity, the information and representations set forth herein must also be given with respect to its individual beneficial owners. Publicly traded companies, need not conduct due diligence as to their beneficial owners.

including those that may be acquired by the Subscriber, shall be diluted by the issuance of additional Membership Interests after the date hereof.

(e) The Subscriber has been furnished any and all materials that the Subscriber has requested relating to the Company or the offering of the Membership Interest, and the Subscriber has been afforded the unrestricted opportunity to ask questions of the management of the Company concerning the terms and conditions of its purchase of the Membership Interest and to obtain any additional information necessary to verify the accuracy of the information provided to the Subscriber or contained in the Operating Agreement. The Subscriber understands that such material is current information about the Company subject to completion and does not in any way guarantee future performance or the completion of future proposed events discussed in such material.

(f) The Subscriber has received and reviewed the investment memorandum for “CASTELLAN HOLDINGS LLC,” which investment memorandum may include certain projections or plans (the “Memorandum”). The Memorandum contains “forward-looking statements” (as such term is defined in Section 27A of the Securities Act). Statements that are not historical facts, including statements about our beliefs and expectations, are forward-looking statements, and include any statement containing a projection of revenues, income (including income loss), earnings (including earnings loss), capital expenditures, dividends, capital structure, or other financial items and statements of the plans and objectives of management for future operations, including plans or objectives relating to the products or services of the Company. FORWARD-LOOKING STATEMENTS INCLUDE STATEMENTS PRECEDED BY, FOLLOWED BY OR THAT INCLUDE THE WORDS “MAY,” “COULD,” “WOULD,” “SHALL,” “SHOULD,” “BELIEVE,” “EXPECT,” “ANTICIPATE,” “PLAN,” “ESTIMATE,” “TARGET,” “PROJECT,” “INTEND,” OR SIMILAR EXPRESSIONS. FORWARD-LOOKING STATEMENTS ARE ONLY PREDICTIONS AND ARE NOT GUARANTEES OF PERFORMANCE. THESE STATEMENTS ARE BASED ON MANAGEMENT OF THE COMPANY’S BELIEFS AND ASSUMPTIONS, WHICH IN TURN ARE BASED ON CURRENTLY AVAILABLE INFORMATION. IMPORTANT ASSUMPTIONS RELATING TO THE FORWARD-LOOKING STATEMENTS INCLUDE, AMONG OTHERS, ASSUMPTIONS REGARDING THE TIMING AND COST OF PLANNED EXPENDITURES, COMPETITIVE CONDITIONS AND GENERAL ECONOMIC CONDITIONS. THESE ASSUMPTIONS COULD PROVE INACCURATE. FORWARD-LOOKING STATEMENTS ALSO INVOLVE KNOWN AND UNKNOWN RISKS AND UNCERTAINTIES, WHICH INVARIABLY WILL CAUSE ACTUAL RESULTS THAT DIFFER MATERIALLY FROM THOSE CONTAINED IN ANY FORWARD-LOOKING STATEMENT. MANY OF THESE FACTORS ARE BEYOND THE COMPANY’S ABILITY TO CONTROL OR PREDICT. NO ASSURANCE CAN BE GIVEN THAT THE COMPANY’S TARGET OF FUTURE PERFORMANCE WILL BE REALIZED, THAT THE COMPANY WILL OPERATE PROFITABLY OR THAT THE SUBSCRIBER WILL RECEIVE THE RETURN OF ALL OR ANY PART OF ITS INVESTMENT HEREIN.

(g) The Subscriber understands that the Membership Interest is being offered and sold in reliance on specific exemptions from the registration requirements of Federal and state law and that the Company is relying upon the truth and accuracy of the representations, warranties, agreements, acknowledgments and understandings set forth herein in order to determine the applicability of such exemptions and the suitability of the Subscriber to acquire the Membership Interest.

(h) The Subscriber understands that the Subscriber is not entitled to cancel, terminate or revoke this subscription upon acceptance by the Company.

(i) The Subscriber understands that the Company was formed to purchase and exploit for profit 100% of the membership interests in Liberty Management LLC, Broadway Total Construction LLC, Castellan Managing Member LLC, Castellan Real Estate, Inc. and CRP Founders Capital Managing Member LLC and to engage in any and all other business activities permitted under the laws of the State of Delaware.

(j) The Subscriber hereby acknowledges and confirms that any placement agent which furnished the private placement memorandum to the subscriber (the “Placement Agent”) is a third party beneficiary of Section 6 and is fully authorized and empowered, to the same extent as if a signatory hereto, to enforce Section 6, pursue all available rights and remedies thereunder, and recover damages on account of any breach or default.

(k) The Subscriber understands and acknowledges that the Placement Agent assumes no responsibility or liability of any nature for the accuracy, adequacy or completeness of any information provided to the Subscriber concerning the sale or purchase of Units contemplated by the Memorandum.

6. Indemnification. The Subscriber acknowledges that the Subscriber understands the meaning of the representations, warranties, acknowledgments, covenants and agreements made by the Subscriber in this Agreement and hereby agrees to indemnify and hold harmless the Company, the Placement Agent and their respective members, managers, officers and employees, and all persons deemed to be in control of any of the foregoing from and against any and all losses, costs, expenses, damages, liabilities and interest (including, without limitation, court costs and attorneys’ fees) arising out of or due to a breach by the Subscriber of any such representations, warranties, acknowledgments, covenants and agreements. All such representations, warranties, acknowledgments, covenants and agreements shall survive the delivery of this Agreement and the purchase by the Subscriber of the Membership Interest.

7. Confidentiality. The Subscriber agrees that, except with the prior written consent of the Company, it shall at all times keep confidential and not divulge, furnish or make accessible to anyone any confidential information, knowledge or data concerning or relating to the business or financial affairs of the Company to which the Subscriber has been or shall become privy by reason of this Agreement, discussions or negotiations relating to this Agreement, the performance of any obligations hereunder or the ownership of Membership Interests purchased hereunder except for such disclosures required to be made by judicial or administrative process or by other requirements of law. The provisions of this Section 7 shall be in addition to, and not in substitution for, the provisions of any separate nondisclosure or other similar agreements executed by any party hereto with respect to the transactions contemplated hereby.

8. Taxpayer Identification Number and Certification.

(a) U.S. Persons: Each subscriber who is a U.S. person must complete and file with the Company, Form W-9. A U.S. person is defined as a U.S. citizen or tax resident as well as U.S. incorporated or organized entities. The Subscriber’s U.S. tax identification number is included on this form as well as a certification that the Subscriber is a U.S. person and is not subject to backup withholding. A U.S. person who owns his interest through a foreign partnership, foreign trust or foreign disregarded entity should also provide the company with Form W-9. If the Subscriber is a disregarded entity (a limited liability company with one U.S. person as its member), the U.S. person should file Form W-9. If the Subscriber is a grantor trust, the owner of the grantor trust should file Form W-9. If the Subscriber is a Trust, but not a grantor trust, the Trust, and not the beneficiaries, should file Form W-9. Form W-9 is contained in Exhibit C on page 66.

(b) Non-U.S. Persons: Subscribers and beneficial owners of Subscribers who are not a “U.S. person” are required to provide the Company with a tax form on which they certify their foreign status and if appropriate eligibility for reductions of U.S. withholding tax rates under U.S. bilateral income tax treaties. As the Company is a partnership, and will earn active business income, the Company is required to withhold U.S. tax on a quarterly basis from the Subscriber’s share of business income and the Subscriber is required to file with the Company Form W8-ECI. If the Subscriber is a foreign partnership, foreign simple trust or a foreign grantor trust, it would file with the Company Form W8-IMY, on which it would indicate whether or not it acts as a qualified U.S. withholding agent

and that it is not acting for its own account. The foreign intermediary would obtain withholding certificates from the person(s) for whom it is acting and submit such certificate(s), such as Form W8-ECI, to the Company.

The relevant W-8 forms are contained in Exhibit D on page 67.

(c) Subscribers who are uncertain as to which certification form they should file with the Company, should contact their U.S. tax advisor.

9. Acceptance of Subscription. The Subscriber understands and agrees that the Company, in its sole discretion, reserves the right to accept or reject this or any other subscription for Membership Interests, in whole or in part, notwithstanding prior receipt by the Subscriber of notice of acceptance of this subscription. The Company shall have no obligation hereunder until the Company shall execute and deliver to the Subscriber an executed copy of this Agreement. If this subscription is rejected in whole, all funds received from the Subscriber will be returned without interest, penalty, expense or deduction, and this Agreement shall thereafter be of no further force or effect. If this subscription is rejected in part, the funds for the rejected portion of this subscription will be returned without interest, penalty, expense or deduction, and this Agreement will continue in full force and effect to the extent this subscription was accepted.

10. Entire Agreement. This Agreement, the Operating Agreement and the other agreements and documents referred to in the Operating Agreement constitute the entire understanding among the parties with respect to the subject matter hereof, and supersede any prior understandings and/or written or oral agreements among them with regard to the subject matter hereof.

11. GOVERNING LAW; JURISDICTION. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO THE PRINCIPLES OF CHOICE OF LAW OR CONFLICTS OF LAWS OF ANY JURISDICTION. THE PARTIES HEREBY EXPRESSLY SUBMIT TO THE EXCLUSIVE VENUE AND PERSONAL JURISDICTION OF THE COURTS OF NEW YORK COUNTY, NEW YORK OR THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPROPRIATE APPELLATE COURT THEREOF, FOR THE RESOLUTION OF DISPUTES ARISING HEREUNDER, AND EACH PARTY HEREBY WAIVES ANY DEFENSE OF IMPROPER VENUE OR INCONVENIENT FORUM AS TO ANY ACTION BROUGHT IN NEW YORK COUNTY, NEW YORK, OR IN THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK.

12. Further Assurances. At the request of the Company and without further conditions or consideration, Subscriber shall from time to time promptly provide such information and execute and deliver such other documents or instruments as may be necessary in the discretion of the Company for the Company to comply with any and all laws, rules and regulations to which the Company is subject.

13. Waivers. Neither this Agreement nor any provision hereof may be waived, modified, discharged or terminated except by an instrument in writing signed by the party against whom such waiver, modification, discharge or termination is sought to be enforced.

14. Invalid Provisions. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms or provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

15. Counterparts; Joinder to Operating Agreement. For the convenience of the parties, this Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. IN ORDER FOR THE SUBSCRIBER TO COMPLETE THIS

AGREEMENT, THE SUBSCRIBER IS REQUIRED TO EXECUTE AND RETURN AN EXECUTED COPY OF THE OPERATING AGREEMENT. A facsimile of an original signature hereunder shall be valid as an original signature.

16. Notice by Electronic Mail. By executing this Agreement, the Subscriber agrees and acknowledges that notice hereunder and under the Operating Agreement by electronic mail shall be adequate notice to Subscriber for all purposes hereunder and under the Operating Agreement, including without limitation the delivery to each Subscriber of a Schedule K-1 to IRS Form 1065 Return of Partnership Income, except as may be required by law.

17. Distribution Instructions. By executing this Agreement, the Subscriber instructs the Company to make any distribution to the Subscriber, and agrees and acknowledges that distributions from the Company to the Subscriber shall be made, as follows (please check one of the following):

[NO FURTHER TEXT ON THIS PAGE]

DISTRIBUTIONS INSTRUCTIONS

Please select how you would like your distributions to be processed. In an effort to increase the efficiency and security of investor distributions, we strongly encourage the use of electronic ACH transfers.

Please note that all distributions for all of your investments with us will be handled according to your instructions on this form. You may change your instructions at any time by providing us with a new form.

Option 1 – Instructions already on file

Please select this option only if you have already provided Castellan with distribution instructions as a part of your subscription to a prior investment.

Option 2 – ACH Transfers

Please provide the following information with respect to the bank account to which distributions from the Company should be sent. Please note that ACH transfers can only be made to a checking or savings account with a US banking institution, which account does not have any further processing instructions. Any account where the final beneficiary is different than the accountholder cannot be used for this purpose. In most cases, accounts with further processing instructions (such as brokerage or wealth management accounts) also have alternative ACH instructions as well. Please contact your financial institution to these instructions.

Bank Name _____
ABA/ Routing Number _____
Bank Address _____
Account Holder Name _____
Account Number _____
Account Holder Address _____

Option 3 – Your Broker Dealer, or Financial Advisor

Select this option if you would like us to forward any distributions to your Broker Dealer or Financial Advisor and specify their name and address.

Broker Dealer/Financial Advisor Name _____
Broker Dealer/Financial Advisor Address _____
Account number _____

Option 4 – Paper check

Select this option and we will mail a paper check to an address you specify.

c/o Name (if applicable) _____
Address _____

By making the above selection, I hereby authorize Castellan Real Estate Partners to process all distributions for all of my investments with them as specified above. I understand that this form supersedes all prior such forms and instructions.

[COUNTERPART SIGNATURE PAGE FOLLOWS]

IN WITNESS, the parties executed this Subscription Agreement on the date first written above.

FOR INDIVIDUALS:

Print Name

Signature

Home Address

Telephone Number

E-mail Address

Social Security No.

FOR ENTITIES:

Print Name of Entity

Signature of Authorized Signatory

Print Name of Authorized Signatory

Print Title of Authorized Signatory

Business Address

Business Telephone Number

E-mail Address

Taxpayer Identification Number

CASTELLAN HOLDINGS LLC

By: CASTELLAN HOLDINGS MANAGER LLC

By: _____

Name:

Title: Manager

EXHIBIT A

LIMITED LIABILITY COMPANY AGREEMENT

CASTELLAN HOLDINGS LLC

Dated as of May 15, 2013

**LIMITED LIABILITY COMPANY AGREEMENT
OF
CASTELLAN HOLDINGS LLC**

This **LIMITED LIABILITY COMPANY AGREEMENT** (this “Agreement”) of **CASTELLAN HOLDINGS LLC** is made and entered into as of May 15, 2013, by and among **CASTELLAN HOLDINGS MANAGER LLC**, a Delaware limited liability company (“CHM”), and each of the other Persons who have executed this Agreement (collectively, the “New Members”; and together with CHM, the “Members”).

WHEREAS, the Company (as hereinafter defined) was formed by CHM pursuant to a Certificate of Formation (the “Certificate of Formation”), dated as of March 19, 2013, and filed with the Secretary of State of Delaware on March 19, 2013; and

WHEREAS, CHM has contributed to the Company 100% of the Initial Business Interests (as herein defined) in consideration of which CHM has received all Membership Interests (as herein defined) in the Company less the Membership Interests held by New Members or any Placement Agent Participation granted to a Placement Agent (as such terms are defined herein); and

WHEREAS, the New Members have entered into Subscription Agreements with the Company pursuant to which in consideration of their cash contributions to the Company the New Members have each received Membership Interests (as herein defined) in the Company equal to 0.25% for each \$100,000 invested; and

WHEREAS, the parties hereto desire to enter into this Agreement upon the terms and conditions set forth herein to provide for the regulation and establishment of the affairs of the Company, the conduct of the business of the Company and the relation between them as Members of the Company.

NOW, THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I

DEFINED TERMS

1.01 Defined Terms. As used in this Agreement, the following terms have the meanings set forth below:

“Additional Capital Contribution” shall have the meaning set forth in Section 4.03(a).

“Adjusted Capital Account Deficit” means, with respect to any Member for any taxable year or other period, the deficit balance, if any, in such Member’s Capital Account as of the end of such year or other period, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts that such Member is obligated to restore or is deemed obligated to restore as described in the penultimate sentence of Treasury Regulation Section 1.704-2(g)(1) and in Treasury Regulation Section 1.704-2(i); and

(b) Debit to such Capital Account the items described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

“Affiliated” or “Affiliate” means, with respect to any Person, (a) any other Person directly or indirectly controlling, controlled by, or under common control with such Person, or (b) any other Person owning or controlling 10% or more of the outstanding voting interests of such Person, or (c) any officer,

director, general partner or managing member of such Person, or (d) any other Person which is an officer, director, general partner, managing member or holder of 10% or more of the voting interests of any other Person described in clauses (a) through (c) of this definition.

“Agreement” has the meaning set forth in the introductory paragraph hereof.

“Available Cash” means Revenues less Expenses after providing for sufficient Reserves as determined in the sole discretion of the Manager.

“Bankruptcy Event” means, with respect to any Person, if such Person (i) makes an assignment for the benefit of creditors, (ii) files a voluntary petition in bankruptcy, (iii) is adjudged bankrupt or insolvent, or has entered against it an order for relief, in any bankruptcy or insolvency proceedings, (iv) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of this nature, (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Person or of all or any substantial part of its properties, or (vii) if 120 days after the commencement of any proceeding against the Person seeking reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without such Person’s consent or acquiescence of a trustee, receiver or liquidator of such Person or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated. The foregoing definition of “Bankruptcy” is intended to replace and shall supersede and replace the definition of “Bankruptcy” set forth in Sections 18-101(1) and 18-304 of the Delaware Act.

“Book Basis” means, with respect to any asset of the Company, the adjusted basis of such asset for federal income tax purposes; provided, however, that (a) if any asset is contributed to the Company, the initial Book Basis of such asset shall equal its fair market value on the date of contribution, and (b) the Book Basis of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Manager, as of the following times: (i) the acquisition of an additional Interest by any new or existing Member in exchange for more than a de minimis Capital Contribution; (ii) the distribution by the Company to a Member of more than a de minimis amount of property as consideration for an Interest; and (iii) in connection with the liquidation of the Company within the meaning of Treasury Regulation Section 1.704-1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (i) and (ii) above shall be made only if the Manager determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company. The Book Basis of all assets of the Company shall be adjusted thereafter by depreciation as provided in Treasury Regulation Section 1.704-1(b)(2)(iv)(g) and any other adjustment to the basis of such assets other than depreciation or amortization, as applicable.

“Broadway Total Construction LLC” means that certain New York limited liability company owned and managed by affiliates of CHM and in the business of construction management.

“Business Day” means any day other than Saturday, Sunday, any day that is a legal holiday in the State of New York, or any other day on which banking institutions in New York are authorized to close.

“Business Interest(s)” has the meaning set forth in Section 2.05.

“Call Notice” has the meaning set forth in Section 9.04.

“Capital Account” means the separate account maintained for each Member under Section 4.04.

“Capital Contribution” means, with respect to any Member, all Initial Capital Contributions and Additional Capital Contributions made by such Member to the Company pursuant to this Agreement.

“Castellan Managing Member LLC” means that certain New York limited liability company owned and managed by affiliates of CHM and in the business of earning carried interest and acquisition fees from certain affiliated property owners for properties acquired by affiliates of CHM on or prior to August 7, 2012.

“Castellan Real Estate, Inc.” means that certain corporation owned and managed by affiliates of CHM and in the business of owning 100% of the voting interests in Castellan Shanghai I Ltd., a Hong Kong corporation.

“Certificate of Formation” has the meaning set forth in the recital paragraphs to this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended.

“Commitment” means the Capital Contributions that a Member is obligated to make, including a Member’s Initial Capital Contribution and any Additional Capital Contribution of a Member.

“Company” means the limited liability company continued and governed by the terms of this Agreement.

“Company Accountant” has the meaning set forth in Section 8.04.

“Company Minimum Gain” means “partnership minimum gain” as defined in Treasury Regulation Section 1.704-2(d).

“Company Property” means any asset or other property (real, personal or mixed) directly or indirectly (including, without limitation, through its ownership of any Business Interest) owned by or leased to the Company, which shall consist of the Initial Business Interests and any other property acquired, directly or indirectly (including, without limitation, through its ownership of any Business Interest), by the Company pursuant to the terms hereof.

“Confidential Information” has the meaning set forth in Section 13.16(a).

“Contribution Percentage” means, for each Member, the pro rata percentage of the Membership Interests held by such Member.

“Control” (including the terms “controlling”, “controlled by” and “under common control with”) means the possession, direct or indirect, of the power (i) to vote 50% or more of the outstanding voting securities of such person or entity; or (ii) to otherwise direct management policies of such person or entity by contract or otherwise.

“CRP Founders Capital Managing Member LLC” means that certain Delaware limited liability company owned and managed by Castellan Managing Member LLC and in the business of earning carried interest and acquisition fees from certain affiliated property owners for properties acquired by affiliates of CHM after August 7, 2012.

“Default Interest Rate” means the lesser of (i) twelve (12%) percent and (ii) the highest rate permitted by law.

“Defaulting Member” shall have the meaning set forth in Section 4.03(c).

“Default Amount” shall have the meaning set forth in Section 4.03(c).

“Default Loan” shall have the meaning set forth in Section 4.03(c).

“Delaware Act” means the Delaware Limited Liability Company Act, as amended from time to time.

“Delinquent Member” shall have the meaning set forth in Section 4.03(c).

“Drag Along Notice” shall have the meaning set forth in Section 9.03.

“Drag Along Purchase Price” shall have the meaning set forth in Section 9.03.

“Electing Contributing Members” shall have the meaning set forth in Section 4.03(c).

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

“Expenses” means, for any period, the total gross expenditures of the Company reasonably relating to the operations of the Company and the ownership, management or operations of any Business Interest during such period including (a) all cash operating expenses of the Business Interests including reasonable allocations of expenses incurred for business purposes in Manager’s discretion, (b) all deposits of Revenues to the Company’s reserve accounts, (c) all debt service payments including debt service on loans made to the Company by the Members or any of their Affiliates, (d) all fees payable to any third party vendors, (e) all expenditures which are treated as capital expenditures (as distinguished from expense deductions included in (a)) under generally accepted accounting principles, and (e) all expenditures related to any acquisition, sale, disposition, financing or refinancing of any Business Interest; provided, however, that Expenses shall not include (i) any payment or expenditure to the extent the sources of funds used for such payment or expenditure are not included in Revenues and (ii) any expenditure properly attributable to the liquidation of the Company or any Business Interest.

“Fiscal Year” means the Calendar Year.

“Funding Default” shall have the meaning set forth in Section 4.03(c).

“Future Business Interest(s)” shall have the meaning set forth in Section 2.05.

“Gross Adjusted Capital Contributions” means, with respect to each Member, the total amount of Capital Contributions contributed by such Member to the Company pursuant to the terms hereof.

“Gross Adjusted Capital Contribution Percentage” means, with respect to each Member from time to time, the quotient, expressed as a percentage, of (x) such Member’s Gross Adjusted Capital Contributions to (y) the aggregate Gross Adjusted Capital Contributions of all Members, as such percentage may be adjusted from time to time pursuant to the terms of this Agreement.

“Indemnitees” has the meaning set forth in Section 10.02.

“Initial Business Interest(s)” shall have the meaning set forth in Section 2.05.

“John” shall have the meaning set forth in Section 7.09.

“Liberty Place Property Management LLC” means that certain New York limited liability company owned and managed by affiliates of CHM and in the business of property management and other services.

“Loss” means, for each taxable year or other period, an amount equal to the Company’s items of taxable deduction and loss for such year or other period, determined in accordance with Section 703(a) of the Code (including all items of loss or deduction required to be stated separately under Section 703(a)(1) of the Code), with the following adjustments:

(a) Any expenditures of the Company described in Section 705(a)(2)(B) of the Code or treated as Section 705(a)(2)(B) expenditures under Treasury Regulation Section 1.704-1(b)(2)(iv)(i) , and not otherwise taken into account in computing Loss, will be considered an item of Loss;

(b) Loss resulting from any disposition of a Business Interest with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Book Basis of such property, notwithstanding that the adjusted tax basis of such property may differ from its Book Basis;

(c) In lieu of depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there will be taken into account depreciation for the taxable year or other period as determined in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(g);

(d) Any items of deduction and loss specially allocated pursuant to Section 6.08 shall not be considered in determining Loss; and

(e) Any decrease to Capital Accounts as a result of any adjustment to the Book Basis of Company assets pursuant to Treasury Regulation Section 1.704-1(b)(2) (iv)(e) or (f) shall constitute an item of Loss.

“Majority” means a percentage which is greater than fifty (50%) percent of the Membership Interests.

“Member” means one or more of CHM, the New Members or any other Person who is admitted as a member of the Company in accordance with this Agreement and applicable law.

“Member Minimum Gain” means the Company’s “partner nonrecourse debt minimum gain” as defined in Treasury Regulation Section 1.704-2(i)(2).

“Member Nonrecourse Debt” means “partner nonrecourse debt” as defined in Treasury Regulation Section 1.704-2(b)(4).

“Member Nonrecourse Deductions” means “partner nonrecourse deductions” as defined in Treasury Regulation Section 1.704-2(i)(2).

“Member Schedule” shall have the meaning set forth in Section 3.01.

“Membership Interest” means, with respect to any Member at any time, the equitable and beneficial interest of such Member in the Company at such time, including the right of such Member to any and all of the benefits to which such Member may be entitled as provided in this Agreement, together with the obligations of such Member to comply with all of the terms and provisions of this Agreement.

“Necessary Expense” means expenses in respect of debt service on any financing (including the expense of curing any defaults thereunder), utilities, salaries and benefits of employees, insurance and emergency repairs, or other expenditures which the Manager determines are necessary for the continued ordinary operation of the Business Interest, including without limitation uninsured losses or deductibles,

operating shortfalls, repairs, replacements, equipment, software, additions or modifications to comply with applicable laws or insurance requirements, insurance premiums for insurance policies approved by the Manager, and any final orders, judgments, or other proceedings and all costs and expenses related thereto.

“Net Cash Flow” means, for any period, the excess of (a) actual Revenues for such period over (b) actual Expenses for such period.

“Net Loss” means, for any period, the excess of Losses over Profits, if applicable, for such period.

“Net Profit” means, for any period, the excess of Profits over Losses, if applicable, for such period.

“Non-Defaulting Member” shall have the meaning set forth in Section 4.03(c).

“Non-Dragging Member” shall have the meaning set forth in Section 9.03.

“Nonrecourse Deductions” has the meaning set forth in Treasury Regulation Section 1.704-2(b)(1).

“Notices” has the meaning set forth in Section 13.03.

“Optionee” shall have the meaning set forth in Section 9.04.

“Paul” shall have the meaning set forth in Section 7.09.

“Person” means any individual, partnership, corporation, limited liability company, limited liability partnership, trust or other entity.

“Placement Agent Participation” means an equity interest in the Company granted to placement agents which are the procuring cause of certain New Member subscriptions for New Members accepted and admitted as Members of the Company in accordance with a separate agreement by and between the Company and the placement agent (the “Placement Agent”).

“Profit” means, for each taxable year or other period, an amount equal to the Company’s items of taxable income and gain for such year or other period, determined in accordance with Section 703(a) of the Code (including all items of income and gain required to be stated separately under Section 703(a)(1) of the Code), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profit will be added to Profit;

(b) Gain resulting from any disposition of a Business Interest with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Book Basis of such property, notwithstanding that the adjusted tax basis of such property may differ from its Book Basis;

(c) Any items specially allocated pursuant to Section 6.02 shall not be considered in determining Profit; and

(d) Any increase to Capital Accounts as a result of any adjustment to the Book Basis of Company assets pursuant to Treasury Regulation Section 1.704 1(b)(2)(iv)(e) or (f) shall constitute an item of Profit.

“Purchaser” shall have the meaning set forth in Section 9.03.

“Reduction Amount” shall have the meaning set forth in Section 4.03(c)(i).

“Revenues” means, for any period, the total gross revenues received by the Company during such period.

“Sale Notice” shall have the meaning set forth in Section 9.03.

“Shortfall” shall have the meaning set forth in Section 4.03(a).

“Tax Authority” shall have the meaning set forth in Section 6.05(a).

“Tax Matters Member” means the tax matters partner as defined in Section 6.08.

“Tax Regulations” shall mean the federal income tax regulations promulgated by the United States Treasury Department under the Code as such Tax Regulations may be amended from time to time. All references herein to a specific section of the Tax Regulations shall be deemed also to refer to any corresponding provision of succeeding Tax Regulations.

“Transfer” has the meaning set forth in Section 9.01.

“Transferee” has the meaning set forth in Section 9.01(b).

“Treasury Regulation” or “Regulation” means, with respect to any referenced provision, such provision of the regulations of the United States Department of the Treasury or any successor provision.

“Winding Up Year” means the taxable year of the Company in which all of its assets are disposed of, or the Company liquidates.

“Withheld Member” shall have the meaning set forth in Section 6.02(a).

1.02 Other Defined Terms. As used in this Agreement, unless otherwise specified, all references to Sections, Articles or Exhibits are to Sections, Articles or Exhibits of this Agreement.

ARTICLE II

ORGANIZATION

2.01 Continuation. The Company was formed as a limited liability company under the Delaware Act by the filing of the Certificate of Formation. The Members hereby agree to continue the Company as a limited liability company under the Delaware Act, upon the terms and subject to the conditions set forth in this Agreement. Express authorization is hereby given to Thomas D. Osgood of United Corporate Services, Inc. to act as an “authorized person” within the meaning of the Delaware Act for the exclusive purpose of executing the Certificate of Formation of the Company which has been filed in the Office of the Secretary of State of Delaware. The Manager is hereby authorized to act as an “authorized person” within the meaning of the Delaware Act to file and record any amendments to the Certificate of Formation and such other documents as may be reasonably required or appropriate under the Delaware Act. The Manager is further authorized to file and record any documents as may be reasonably required or appropriate under the laws of any other jurisdiction in which the Company may conduct business or own property.

2.02 Name and Principal Place of Business.

(a) The name of the Company is set forth on the cover page to this Agreement. The Manager may change the name of the Company or adopt such trade or fictitious names for use by the Company as the Manager may from time to time determine. All business of the Company shall be

conducted under such name, and title to all Company Property shall be held in such name.

(b) The principal place of business and office of the Company shall be located at c/o Castellan Real Estate Partners, 1841 Broadway, Suite 400, New York, New York 10023, or at such other place or places as the Manager may from time to time designate.

2.03 Term. The term of the Company commenced on March 19, 2013, the date of the filing of the Certificate of Formation pursuant to the Delaware Act, and shall continue in existence in perpetuity, unless the Company is sooner dissolved pursuant to the provisions of this Agreement. The existence of the Company as a separate legal entity shall continue until cancellation of the Certificate of Formation as provided in the Delaware Act.

2.04 Registered Agent and Registered Office. The name of the Company's registered agent for service of process shall be Vcorp Services, LLC, and the address, of the Company's registered agent and the address of the Company's registered office in the State of Delaware shall be 1811 Silverside Road, Wilmington, Delaware 19810. Such agent and such office may be changed from time to time by the Manager with written notice to all Members.

2.05 Purpose.

The purpose of the Company shall be to conduct and engage in the following activities:

(i) to own, directly or indirectly, 100% of the limited liability company interests in Liberty Place Property Management LLC, Broadway Total Construction LLC, Castellan Managing Member LLC and CRP Founders Capital Managing Member LLC, and 100% of the issued and outstanding shares in Castellan Real Estate, Inc. (collectively, the "Initial Business Interests");

(ii) to own, directly or indirectly, limited liability company or other interests in entities engaged in such business activities as may be determined by the Manager to be synergistic with the Business Interests (as defined below) of the Company, in each case as the Manager may determine in its reasonable discretion is a prudent and reasonable investment (each a "Future Business Interest", and collectively, the "Future Business Interests", and together with the Initial Business Interests, collectively, the "Business Interests"), including without limitation participating in real estate investments owned or controlled by affiliates of the Manager; and

(iii) to conduct all activities reasonably necessary, appropriate, proper, advisable, incidental, convenient or desirable for the furtherance and accomplishment of the foregoing purposes, and for the protection and benefit of the Company.

ARTICLE III

MEMBERS

3.01 Members.

(a) Effective as of the date of this Agreement, the name and address of each of the Members of the Company is set forth on a schedule to be maintained by Manager at the principal place of business and office of the Company, (the "Member Schedule") which Member Schedule is available for inspection upon reasonable notice given to the Manager and shall be amended from time to time by the Manager to reflect the admission or withdrawal of a Member or the transfer or assignment of Membership Interests in accordance with the terms of this Agreement and other modifications to or changes in the information set forth herein.

(b) The Members, in exercise of their duties hereunder as Members, to the fullest extent permitted by law, shall have no fiduciary duties towards each other.

3.02 Limitation on Liability. Except as otherwise expressly provided in the Delaware Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member of the Company. Except as otherwise expressly provided in the Delaware Act, the liability of each Member to the Company shall be limited to the amount of the Commitment made by such Member in accordance with the provisions of this Agreement, but only when and to the extent the same shall become due pursuant to the provisions of this Agreement.

3.03 Liability of a Member to the Company. No Member is an agent of the Company solely by virtue of being a Member, and no Member has (or shall hold itself out as having) authority to sign, act for or bind the Company solely by virtue of being a Member, all of such powers being vested in the Manager (as set forth herein). Any Member that executes any document or instrument or otherwise takes any action to bind the Company in violation of this Section 3.03 shall be solely responsible for, and shall indemnify, defend and hold harmless the Company and each other Member against, any damage, loss, liability or expense, including reasonable attorneys' fees, as and when incurred, that the Company, or such other Member, as the case may be, may at any time become subject to or liable for by reason of the actions specified above or enforcement of the indemnity contained in this Section 3.03. The provisions of this Section 3.03 shall survive the termination of this Agreement.

3.04 Action by Members Without a Meeting. Whenever the Members are required or permitted to take any action by vote, such action may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing (including in electronic format), setting forth the action so taken shall be signed by the Members who hold voting interests having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the Members entitled to vote thereon were present and voted and shall be delivered to the Company.

3.05 Certain Duties and Obligations of the Members. (a) The Members shall take all action which may be reasonably necessary or appropriate for (i) the formation and continuation of the Company as a limited liability company under the laws of the State of Delaware, and (ii) the development, maintenance, preservation and operation of the business of the Company in accordance with the provisions of this Agreement and applicable laws and regulations. The Manager shall take all action which is reasonably necessary and appropriate to form or qualify the Company to conduct the business in which the Company is engaged under the laws of any jurisdiction in which the Company is doing business and to continue in effect such formation or qualification. No Member shall cause any Bankruptcy Event to occur with respect to the Company without the consent of the Manager.

(b) No Member shall take any action so as to cause the Company to be classified for federal income tax purposes as an association taxable as a corporation and not as a partnership.

(c) The provisions of this Agreement, to the extent that they restrict or reduce the duties and/or liabilities of a Member or the Manager otherwise existing at law or in equity (including under the Delaware Act), shall replace the other duties and liabilities of such Member or the Manager (as the case may be).

(d) Each Member (including any Member that may be acting as the Manager) shall defend and indemnify the Company, and the other Members against, and shall hold it and them harmless from, any damage, loss, liability or expense, including reasonable attorneys' fees, as and when incurred in connection with or resulting from such indemnifying Member's (or its Affiliates') material misrepresentation, gross negligence, malfeasance, fraud, theft, misappropriation, willful misconduct, breach of Article IX, breach of Section 3.03, breach of the last sentence of Section 3.05(a) or enforcement of the indemnity set forth in this Section 3.05(d).

ARTICLE IV

CAPITAL

4.01 General. Capital Contributions shall generally be made by the Members, as, when and for the purposes set forth in this Article IV in accordance with their respective Contribution Percentages.

4.02 Initial Capital Contributions. Each Member is deemed to have made the initial Capital Contribution as of the date hereof set forth opposite such Member's name on the Member Schedule. No Member shall be required to make a Capital Contribution or fund a Member Loan except as expressly provided in this Agreement.

4.03 Additional Capital Contributions.

(a) If at any time or from time to time after all of the Initial Capital Contributions have been contributed, the Manager determines that additional funds (a "Shortfall") are reasonably required (i) to meet the ongoing obligations, liabilities, Expenses, Necessary Expenses or reasonable business needs of the Company, to the extent not covered by the Initial Capital Contributions, (ii) to fund the acquisition, initial funding or other investment in a Future Business Interest, (iii) to fund reserves sufficient to meet future cash needs of the Company reasonably anticipated by the Manager, or (iv) for any other purpose determined by the Manager, the Manager may (but shall not be obligated to), require that each of the Members contribute its pro rata share (based on their respective Contribution Percentages) of such Shortfall (in each case, an "Additional Capital Contribution").

(b) If an Additional Capital Contribution is requested by the Manager, such Additional Capital Contribution shall be due within ten (10) Business Days after receipt of notice from the Manager and such further Additional Contributions (as shall be determined by the Manager) shall be made by the Members pro rata in accordance with the relative value of the Capital Contributions of such Members outstanding at the time. Upon making such a determination, the Manager shall give written Notice, setting forth the amount of the proposed Additional Contribution, the purpose for which it is needed, and the proposed contribution date, to all Members. Such notice shall be sent to all Members at least ten (10) Business Days prior to such contribution date. All Capital Contributions, including, without limitation, Additional Capital Contributions shall be made by wire transfer of funds to accounts designated by the Manager from time to time.

(c) In the event any Member (a "Delinquent Member") fails to perform the Delinquent Member's Commitment, the Manager shall give the Delinquent Member a notice of such failure. If the Delinquent Member fails to perform its Commitment (including the payment of any costs associated with the failure and interest at the Default Interest Rate) within ten (10) Business Days of the giving of such notice, a Delinquent Member's Commitment may be satisfied by any or all of the non-delinquent Members pro rata in accordance with the respective Contribution Percentages of those Members who satisfy such delinquent Commitment. In the event that any Member shall be in default (a "Defaulting Member") in its obligation to timely perform its commitment and such default shall continue for fifteen (15) Business Days following notice from the Company (a "Funding Default"), then the Company may commence legal proceedings to compel the Defaulting Member to perform its commitment and may otherwise pursue any and all rights and remedies at law or in equity against such Member. In addition, the non-defaulting Members (the "Non-Defaulting Members") shall have the right, in their discretion (but shall not be obligated), to fund a loan (the "Default Loan") to the Defaulting Member (such Non-Defaulting Members that elect to make the Default Loan shall be referred to herein as the "Electing Contributing Members"), of all or any part of the amount which the Defaulting Member has failed to contribute (the "Default Amount"), which loan shall bear interest at a rate equal to the lesser of (A) twelve (12%) percent per annum, or (B) the highest rate then permitted by law. In the event that more than one Non-Defaulting Member elects to loan to the Company the Default Amount, then such Default Loans by the Non-Defaulting Members shall be

made pro rata in proportion to the respective relevant Membership Interests of such Non-Defaulting Members prior to the Funding Default. Any such Default Loan shall be repaid out of Distributions hereunder due to the Defaulting Member in accordance with the terms of this Agreement (and shall not be an obligation of the Company), which amounts shall be applied first to interest and then to principal until such loan is paid in full. Any Tax item attributable to the interest accruing on such Default Loan shall be allocated solely to the Non-Defaulting Member(s) making such Default Loan on a pro rata basis. The proceeds of a Default Loan shall be deemed a loan to the Defaulting Member and then a Capital Contribution by the Defaulting Member to the Company. In the event that the Default Loan has not been repaid in full on or prior to the three (3) month anniversary of the funding of the Default Loan, the Defaulting Member shall repay any such outstanding amount, including, without limitation, any accrued but unpaid interest on such amount, within three (3) Business Days after written demand by the Electing Contributing Member(s). If the Defaulting Member shall fail to repay such amount within such three (3) Business Day period, at the option of any of the Electing Contributing Member(s) making the Default Loan, the applicable Electing Contributing Member's portion of the Default Loan shall be converted into a Capital Contribution to the Company by such Electing Contributing Member(s). Upon such conversion, (or in the event that no Non-Defaulting Member makes a Default Loan):

(i) the Membership Interests of such Defaulting Member shall be reduced by a number of percentage points, which shall not exceed the amount of the Defaulting Member's Contribution Percentage at the time of the capital call in question (the "Reduction Amount"), equal to the product of (1) the percentage equivalent to a fraction, the numerator of which is (A) the Default Amount (plus any interest accrued on any Default Loan made in connection with the Default Amount) and the denominator of which is (B) the aggregate amount of all Capital Contributions, including, without limitation, Capital Contributions made in response to the capital call that resulted in the default of the Defaulting Member and (2) one hundred twenty-five (125%) percent;

(ii) each Electing Contributing Member's Contribution Percentage and each other Non-Defaulting Member's Contribution Percentage shall be increased as follows:

(A) in addition to the increase (if any) set forth in clause (B) below, the Electing Contributing Member's Contribution Percentage (if any) shall be increased by a number of percentage points equal to the product of:

(1) a percentage equivalent to a fraction, the numerator of which is the amount of the Default Loan that was converted to a Capital Contribution and the denominator of which is the Default Amount, multiplied by

(2) the Reduction Amount; and

(B) the Electing Contributing Member's Contribution Percentage and the Interests of the Non-Defaulting Members (if any) that did not make a Default Loan that was converted to a Capital Contribution shall each be increased by a number of percentage points equal to the product of:

(1) a fraction, the numerator of which is such Member's Capital Contribution and the denominator of which is the aggregate amount of all Capital Contributions of the Electing Contributing Member (if any) (excluding any Capital Contribution attributable to the Default Amount) and the Non-Defaulting Members, multiplied by

(2) the Reduction Amount, less that portion of the Reduction Amount allocated to the Electing Contributing Member under Section (ii)(A) above.

(C) Any Member that shall be a Defaulting Member shall during the pendency of such default not have the rights of a Member of the Company under the Act or this Agreement (including, without limitation, the right to obtain any information on account of the Company's transactions, to inspect the Company's books or to vote with the Members on, or to grant or withhold consents or approvals of, any matter) except for the right to receive such Member's Distributions which shall remain with the Defaulting Member but shall be paid to the Electing Contributing Member(s) as provided herein until the earlier of (i) the date the Default Loan is paid in full or (ii) the interests of the Defaulting Member are reduced under Section (ii)(A) above.

4.04 Capital Accounts. A separate Capital Account will be maintained for each Member in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv). Consistent therewith, the Capital Account of each Member will be determined and adjusted as follows:

(a) Each Member's Capital Account will be credited with:

(i) Any contributions of cash made by such Member to the capital of the Company plus the fair market value of any property contributed by such Member to the capital of the Company (net of any liabilities to which such property is subject or which are assumed by the Company);

(ii) The Member's distributive share of Net Profit and any items in the nature of income or gain specially allocated to such Member pursuant to Section 6.02; and

(iii) Any other increases required by Treasury Regulation Section 1.704-1(b)(2)(iv).

(b) Each Member's Capital Account will be debited with:

(i) Any distributions of cash made from the Company to such Member plus the fair market value of any property distributed in kind to such Member (net of any liabilities to which such property is subject or which are assumed by such Member);

(ii) The Member's distributive share of Net Loss and any items in the nature of expenses or losses specially allocated to such Member pursuant to Section 6.02; and

(iii) Any other decreases required by Treasury Regulation Section 1.704-1(b)(2)(iv).

(c) The initial Capital Account balance of each Member as of the date hereof is set forth in the Member Schedule, which balances have been determined in accordance with the provisions of Treasury Regulation Section 1.704-1(b)(2)(iv)(f) and stand in proportion to the respective Contribution Percentages of the Members. The Member Schedule shall be updated by the Manager from time to time to reflect additional Capital Contributions.

4.05 No Further Capital Contributions. Except as expressly provided in this Agreement, no Member shall be required or entitled to contribute any other or further capital to the Company, nor shall any Member be required or entitled to loan any funds to the Company. No Member will have any obligation to restore any negative balance in its Capital Account at any time including upon liquidation or dissolution of the Company.

4.06 Withdrawal; Successors. A Member shall not be entitled to withdraw any part of its Capital Account or to receive any distribution from the Company, except as specifically provided in this Agreement, and no Member shall be entitled to make any capital contribution to the Company other than its Commitment. Any Member, including any additional or substitute Member, who shall receive an interest in the Company or whose interest in the Company shall be increased by means of a transfer to it of all or part of the interest of another Member, shall have a Capital Account with respect to such interest

initially equal to the Capital Account with respect to such interest of the Member from whom such interest is acquired except as otherwise required to account for any step up in basis resulting from a termination of the Company under Section 708 of the Code by reason of such interest transfer.

4.07 Interest. No Member shall be entitled to interest on such Member's Capital Contribution or on any Profits retained by the Company.

4.08 Investment of Capital Contributions. The Capital Contributions of the Members shall be invested by the Manager in demand, money market or time deposits, obligations, securities, investments or other instruments constituting cash equivalents, until such time as such funds shall be used by the Manager for Company purposes. Such investments shall be made by the Manager for the benefit of the Company.

4.09 No Personal Liability. The Manager shall have no personal liability for the repayment of any Capital Contributions of any Member.

ARTICLE V

INTERESTS IN THE COMPANY

5.01 Adjustments. The Contribution Percentages and Gross Adjusted Capital Contribution Percentages of the Members may be adjusted only as set forth in this Agreement.

5.02 Return of Capital. No Member shall be liable for the return of the Capital Contributions (or any portion thereof) of any other Member, it being expressly understood that any such return shall be made solely from the assets of the Company. No Member shall be entitled to withdraw or receive a return of any part of its Capital Contributions or Capital Account, to receive interest on its Capital Contributions or Capital Account or to receive any distributions from the Company, except as expressly provided for in this Agreement or under applicable law. No Member shall have any obligation to restore any negative balance in its Capital Account.

5.03 Ownership. All Business Interests shall be owned by the Company, subject to the terms and provisions of this Agreement. Title to Company Property (including the Business Interests of the Company) shall be held by the Company in the Company's name.

5.04 Waiver of Partition; Nature of Interests in the Company. Except as otherwise expressly provided for in this Agreement, and without limiting the Manager's right to sell all or any portion of the Business Interests as permitted hereunder, each of the Members hereby irrevocably waives any right or power that such Member might have:

- (a) To cause the Company or any of its assets to be partitioned;
- (b) To cause the appointment of a receiver for all or any portion of the assets of the Company;
- (c) To compel any sale of all or any portion of the assets of the Company pursuant to any applicable law; or
- (d) To the fullest extent permitted by law, to file a complaint, or to institute any proceeding at law or in equity, to cause the termination, dissolution or liquidation of the Company.

Each of the Members has been induced to enter into this Agreement in reliance upon the waivers set forth in this Section 5.04, and without such waivers no member would have entered into this Agreement. No Member shall have any interest in any specific Business Interest. The interests of all Members in this Company are personal property.

ARTICLE VI

ALLOCATIONS AND DISTRIBUTIONS

6.01 Allocations of Profits and Losses. For purposes of maintaining the Capital Accounts, Net Profits or Net Losses for any tax year (or portion thereof) shall be allocated among the Members, to the extent possible, in such a manner as to cause the balance in the Capital Account of each Member, as adjusted to reflect the allocations provided hereunder and the allocations under Section 6.02, to be equal to the aggregate amount of cash such Member would receive if the Company were liquidated and each asset of the Company were sold for an amount of cash equal to its respective Book Basis, all debt obligations were satisfied in accordance with their respective terms (limited with respect to each Company Nonrecourse Debt or Member Nonrecourse Debt to the Book Basis of the assets securing such debt) and the remaining cash were distributed as provided in Section 6.03.

6.02 Required Special Allocations. Notwithstanding Section 6.01.

(a) Any Member Nonrecourse Deductions shall be specially allocated to the Member that bears the economic risk of loss with respect to the Member Nonrecourse Debt to which the Member Nonrecourse Deductions are attributable in accordance with Tax Regulations Section 1.704-2(i)(1). Nonrecourse deductions shall be allocated among the Members in proportion to their respective Membership Interests.

(b) Appropriate allocations of income, gain, loss or deduction shall be made to the extent required to comply with the “qualified income offset” provisions of Tax Regulations Section 1.704-1(b)(2)(ii)(d), the Company “minimum gain chargeback” provisions of Tax Regulations Section 1.704-2(f) and the Member “minimum gain chargeback” provisions of Regulations Section 1.704-2(i)(4), all issued pursuant to Section 704(b) of the Code. To the extent permitted by such Tax Regulations, the allocations in such year and subsequent years shall be further adjusted so that the cumulative effect of all the allocations shall be the same as if all such allocations were made pursuant to Section 6.01 without regard to Section 6.02(a) and this Section 6.02(b).

(c) In the event any Member has a deficit Capital Account balance at the end of a Fiscal Year that is in excess of the sum of (i) the amount (if any) such Member is obligated to restore pursuant to this Agreement, and (ii) the amount (if any) such member is deemed to be obligated to restore pursuant to the Tax Regulations, taking into account all other allocations and adjustments under this Agreement (made as if this Section 6.02(c) were not in this Agreement), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible.

(d) Any Company Nonrecourse Deductions for a Fiscal Year shall be specially allocated to the Members in proportion to their respective Membership Interests. Solely for purposes of determining a Member’s proportionate share of any excess nonrecourse liability of the Company, as described in Tax Regulation Section 1.752-3(a)(3), the Members’ interests in Company profits shall be deemed to coincide with their respective Membership Interests.

(e) In accordance with Code Section 704(c) (and the principles thereof) and the Tax Regulations issued with respect thereto, income, gain, loss and deduction with respect to any property contributed to the capital of the Company, or after Company property has been revalued under Tax Regulation Section 1.704-1(b)(2)(iv) shall, solely for tax purposes, be allocated among the Members so as to take into account any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Basis. Allocations pursuant to this Section 6.02(e) are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member’s Capital Account or share of Net Profit, Net Loss or other items or distributions pursuant to any provision of this Agreement.

(f) Net Profits, Net Losses, income, gain, deductions and credits allocated to a

Membership Interest transferred, issued or reissued during a Fiscal Year shall be allocated to the Persons who were the holders of such Membership Interest during such Fiscal Year, using any method selected by the Manager to the extent permitted by the Code.

6.03 Distributions. From time to time, the Manager shall determine the amount, if any, of any Available Cash, which Available Cash shall, subject to Sections 4.03 and 6.06, be distributed to the Members as follows:

(i) First, to the Members holding all the outstanding Member Loans on a *pari passu* basis (in proportion to the relative outstanding amounts of the accrued interest and outstanding principal balance of each Member Loan); and

(ii) Second, *pari passu* to the Members in proportion to their respective Membership Interests.

6.04 Offset. The Company may offset all amounts owing to the Company by a Member against any Distribution to be made to such Member.

6.05 Withholding. (a) Notwithstanding any other provision contained in this Agreement, in the event that the Company is required to withhold and remit any taxes to the Internal Revenue Service or any other taxing authority (the "Tax Authority") with respect to any Member (the "Withheld Member"), then each such Withheld Member shall be required to make additional contributions at such times and in such amounts as determined by the Manager sufficient to fund, or reimburse the Company for, such obligations of the Company. Such additional contributions shall not be deemed Capital Contributions for purposes of this Agreement (but shall increase the Capital Account balance of such Member), and shall not change the Distributions that would otherwise be made to such Withheld Member. The amount of any such taxes remitted by the Company with respect to a Withheld Member for any year shall be a reduction of such Member's Capital Account balance as if such amount were distributed to such Member. Notwithstanding the foregoing, the Manager (in lieu of all or a portion of an additional contribution to be made pursuant to this Section 6.05) shall offset any Distribution to be made to a Member against all or any portion of such contribution that would otherwise be required and thereby reduce the contribution required to be made by such Member.

(b) U.S. Persons: Each Member who is a U.S. person must complete and file with the Company, Form W-9. A U.S. person is defined as a U.S. citizen or tax resident as well as U.S. incorporated or organized entities. The Member's U.S. tax identification number is included on this form as well as a certification that the Member is a U.S. person and is not subject to backup withholding. A U.S. person who owns his interest through a foreign partnership, foreign trust or foreign disregarded entity should also provide the company with Form W-9. If a Member is a disregarded entity (a limited liability company with one U.S. person as its member), the U.S. person should file Form W-9. If a member is a grantor trust, the owner of the grantor trust should file Form W-9. If a Member is a Trust, but not a grantor trust, the Trust, and not the beneficiaries, should file Form W-9.

(c) Non-U.S. Persons: Members and beneficial owners of Members who are not a "U.S. person" are required to provide the Company with a tax form on which they certify their foreign status and if appropriate eligibility for reductions of U.S. withholding tax rates under U.S. bilateral income tax treaties. As the Company is a partnership, and will earn active business income, the Company is required to withhold U.S. tax on a quarterly basis from the Member's share of business income and the Member is required to file with the Company Form W8-ECI. If the Member is a foreign partnership, foreign simple trust or a foreign grantor trust, it would file with the Company Form W8-IMY, on which it would indicate whether or not it acts as a qualified U.S. withholding agent and that it is not acting for its own account. The foreign intermediary would obtain withholding certificates from the person(s) for whom it is acting and submit such certificate(s), such as Form W8-ECI, to the Company.

6.06 Distributions in Liquidation. Upon the dissolution and winding-up of the Company, the proceeds of sale and other assets of the Company distributable to the Members under Section 11.02(c)(ii) shall be distributed, not later than the latest time specified for such distributions pursuant to Tax Regulation Section 1.704-1(b)(2)(ii)(b)(2) to the Members in accordance with Section 6.03 of this Agreement, as applicable. With the approval of the Manager, a pro rata portion of the distributions that would otherwise be made to the Members under the preceding sentence may be distributed to a trust reasonably established, for a reasonable period of time, for the benefit of the Members for the purposes of liquidating Company assets, collecting amounts owed to the Company, and paying any contingent or unforeseen liabilities or obligations of the Company arising out of or in connection with the Company. The assets of any trust established under this Section 6.06 will be distributed to the Members from time to time by the trustee of the trust upon approval of the Manager in the same proportions as the amount distributed to the trust by the Company would otherwise have been distributed to the Members under this Agreement. Notwithstanding the foregoing, in the event the Company is liquidated within one (1) year from the date hereof, the proceeds of liquidation shall be distributed as follows:

(i) First, to the Members holding all the outstanding Member Loans on a *pari passu* basis (in proportion to the relative outstanding amounts of the accrued interest and outstanding principal balance of each Member Loan);

(ii) Second, to the New Members in proportion to their respective Membership Interests until the New Members have received one hundred (100%) percent of their capital contributions less any amounts previously distributed by the Company to the New Members; and

(iii) Third, *pari passu* to the Members in proportion to their respective Membership Interests.

6.07 Tax Matters. The Members intend for the Company to be treated as a partnership for federal income tax purposes. The Tax Matters Member shall make all applicable elections, determinations and other decisions under the Code and applicable Tax Regulations, including, without limitation, the deductibility of a particular item of expense and the positions to be taken on the Company's tax return, and shall approve the settlement or compromise of all audit matters raised by the Internal Revenue Service affecting the Members generally. The Members shall each take reporting positions on their respective federal, state and local income tax returns consistent with the positions determined for the Company by the Manager. The Tax Matters Member shall cause all federal, state and local income and other tax returns to be timely filed by the Company in accordance with Section 8.03.

6.08 Tax Matters Member. The Manager shall be the tax matters partner (referred to herein as, the "Tax Matters Member") within the meaning of Section 6231(a)(7) of the Code and, subject to Section 6.06, shall exercise all rights, obligations and duties of a tax matters partner under the Code.

6.09 Section 704(c). In accordance with Section 704(c) of the Code and the applicable Tax Regulations thereunder, income, gain, loss, deduction and tax depreciation with respect to any property contributed to the capital of the Company, or with respect to any property which has a Book Basis different than its adjusted tax basis, shall, solely for federal income tax purposes, be allocated among the Members so as to take into account any variation between the adjusted tax basis of such property to the Company and the Book Basis of such property. Any elections, accounting conventions or other decisions relating to such allocations shall be made by the Tax Matters Member in a manner that (A) reasonably reflects the purposes and intention of this Agreement, and (B) complies with Code Sections 704(b) and 704(c) and the Treasury Regulations thereunder. For such allocations, the Tax Matters Member may select any method permitted in the Tax Regulations under Code Section 704(c) with respect to such allocations, including the "traditional method", the "traditional method with curative allocations" and the "remedial allocation method".

6.10 Restriction on Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not be required to make a distribution to a Member on account of its interest in the Company if such distribution would violate the Delaware Act or any other applicable law.

ARTICLE VII

MANAGEMENT

7.01 Manager. Except as otherwise provided in this Agreement, the management of the Company and all decisions concerning the business affairs of the Company shall be made by the Manager. The Members hereby appoint CHM as the Manager. The Manager may, but need not, be a Member of the Company.

7.02 Term of Office as Manager. The Manager shall serve until the dissociation of such Manager or any removal of such Manager pursuant to Section 7.07.

7.03 Authority of Manager. Only the Manager and authorized agents of the Company shall have the authority to bind the Company. Subject to Section 6.01, the Manager has the power, on behalf of the Company, to manage and operate the day to day business and affairs of the Company, to do all things necessary or convenient to carry out the purpose of the Company (as described in Article II), including, without limitation: (a) the institution, prosecution and defense of any proceeding in the Company's name; (b) the purchase, receipt, lease or other acquisition, ownership, holding, improvement, use and other dealing with any Company Property; (c) the sale, conveyance, pledge, lease, exchange, and other disposition of any Company Property; (d) the entering into of contracts and guaranties, incurring of liabilities, borrowing of money, issuance of notes, bonds, and other obligations, and the securing of any of its obligations by mortgage or pledge of any of any Company Property or income therefrom; (e) the lending of money, investment and reinvestment of the Company's funds, and receipt and holding of any Company Property or income therefrom as security for repayment; (f) the conduct of the Company's business, the establishment of Company offices, and the exercise of the powers of the Company; (g) the hiring and appointment of employees and agents of the Company, the defining of their duties and the establishment of their compensation, and the dealing with tradespeople, accountants and attorneys, on such terms as the Manager shall determine, including any reasonable allocation to the Company of Manager's costs and expenses including compensation for such professional accounting and legal or other services as shall be reasonably determined as necessary by the Manager; (h) the payment of pensions and establishment of pension plans, pension trusts, profit sharing plans, and benefit and incentive plans for Members, employees, and agents of the Company; (i) the purchase of liability and other insurance to protect the Company's business and assets; (j) the participation in partnership agreements, joint ventures, or other associations of any kind with any person or persons; (k) the indemnification of any Person; (l) the establishment of reserve funds of the Company to provide for future requirements for operations, contingencies or any other purpose that the Manager deems necessary or appropriate; (m) the purchase of investments intended to hedge against interest rate risks associated with any Company debt which has a floating rate and other risks; and (n) the making of such elections under the Code and Tax Regulations and other relevant tax laws as to the treatment of items of Company income, gain, loss, deduction and credit, and as to all other relevant matters as the Manager deems necessary or appropriate, including without limitation, elections referred to in Section 754 of the Code, the determination of which items of cash outlay shall be capitalized or treated as current expenses, and the selection of the method of accounting and bookkeeping procedures to be used by the Company. Notwithstanding anything to the contrary contained in this Agreement, the Manager shall have the authority to modify the Company's organizational structure by any means, provided that the economic benefits to the Members are not materially and negatively affected and the Company continues to hold the Business Interests, directly or indirectly.

7.04 Actions of the Manager. The Manager has the power to bind the Company as provided in this Article VII. No Person dealing with the Company shall have any obligation to inquire into the power or authority of the Manager acting on behalf of the Company.

7.05 Compensation of Manager. The Manager or affiliates of the Manager may perform certain services for the Company for which the Manager or affiliates of the Manager shall receive compensation. The rate and terms of these arrangements will be generally consistent with rates and terms as would be agreed for the provision of similar services by similar quality providers on an arms' length basis to unaffiliated third parties. The Manager shall be entitled to reimbursement from the Company for expenses incurred by the Manager in connection with the operation of the Company, as same may be allocated to the Company in the Manager's discretion.

7.06 Manager's Standard of Care. The Manager shall not be required to devote full time to the management of the Company business, but only so much time as shall be necessary or appropriate for the proper management of such business. The Manager shall discharge the Manager's duties to the Company and the Members in good faith and with that degree of care that an ordinarily prudent person in a similar position would use under similar circumstances. In discharging its duties, the Manager shall be fully protected in relying in good faith upon the records required to be maintained under Article VIII and upon such information, opinions, reports or statements by any Person as to matters the Manager reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence and amount of assets from which Distributions to Members might properly be paid. The Company shall indemnify and hold harmless each Manager against any loss, damage or expense (including attorneys' fees) incurred by the Manager as a result of any act performed or omitted on behalf of the Company or in furtherance of the Company's interests without, however, relieving the Manager of liability for failure to perform his or her duties in accordance with the standards set forth herein. The satisfaction of any indemnification and any holding harmless shall be from and limited to Company property and the other Members shall not have any personal liability on account thereof.

7.07 Removal of Manager. The Manager may not be removed by the Members other than for fraud, gross negligence, willful misconduct or breach of the Manager's standard of care as described in Section 7.05, in which case the Manager may be removed by the vote of all of the Members other than the Manager.

7.08 Competitive Activities. Neither this Agreement nor anything implied by the relationship between Manager and the Company shall prohibit the Manager or any affiliate or principal of the Manager, from owning, operating, and/or managing any business which may compete with the business of the Company.

7.09 Special Succession Provisions. Each of the members hereby agrees that in the event either Paul A. Salib ("Paul") or John B. Salib ("John") ceases to be a member of the Manager or ceases or is unable or unwilling to act as manager of the Manager, the other shall assume full management control thereof. In the event Paul or John both have ceased to act or are unable or unwilling to act as manager of the Manager, the Members of the Company may elect to appoint a manager of the Company nominated by a majority of the Members.

ARTICLE VIII

BOOKS AND RECORDS

8.01 Records to be Maintained. The Company shall maintain the following records at the Principal Office:

- (a) a current list of the full name set forth in alphabetical order and last known mailing address of each Member, together with the information set forth on the Member Schedule relating to each Member's Capital Contributions;
- (b) a copy of the Certificate of Formation and all amendments thereto;
- (c) a copy of the Company's federal, state and local income or information tax returns and reports for the three (3) most recent Fiscal Years;
- (d) a copy of this Agreement, including all amendments thereto; and
- (e) the Company's books and records, including financial statements of the Company, which shall be open to inspection by the Members or their agents at reasonable times and upon at least 24 hours prior written notice to Manager.

8.02 Reports to Members. The Manager shall provide reports, including a balance sheet, statement of profit and loss and changes in Members' accounts, and a statement of cash flows, at least annually to the Members at such time and in such manner as the Manager reasonably may determine.

8.03 Tax Returns and Reports. The Manager, at Company expense, shall prepare and timely file income tax returns of the Company in all jurisdictions where such filings are required, and shall prepare and deliver to each Member as soon as practicable after the expiration of each Fiscal Year, and at Company expense, all information returns and reports required and reports by the Code and Tax Regulations and Company information necessary for the preparation of the Members' federal income tax returns.

8.04 The Company Accountant. The company shall retain as the regular accountant for the Company (the "Company Accountant") an accountant and/or accounting firm designated by the Manager. The reasonable fees and expenses of the Company Accountant shall be a Company expense.

8.05 Reserves. The Manager may establish reasonable reserves for the purposes and requirements it deems appropriate.

ARTICLE IX

TRANSFER OF INTERESTS

9.01 Restrictions on Transfer of Company Interests. (a) Except for Transfers permitted hereunder, no Member may, directly or indirectly, assign, sell, exchange, transfer, pledge, hypothecate or otherwise dispose of all or any part of its Interest (or permit any of the foregoing to occur), including any direct or indirect interest (whether legal or beneficial) in such Member (any such assignment, sale, exchange, transfer, pledge, hypothecation or other disposition of an Membership Interest or a direct or indirect interest in a Member being herein referred to as a "Transfer") to any Person without the prior written consent of the Manager. In the event of a partial Transfer of a Membership Interest that is effectuated in accordance with the provisions hereof, such Transferee shall, for the purposes of this Article IX, be treated, together with the Member who transferred such Membership Interest to the Transferee, as a single entity with such transferor Member having the authority to make elections and give notices hereunder

on behalf of such transferor Member and Transferee. Any such partial Transferee will be bound by the elections made by such transferor Member.

(b) Upon any Transfer of a Member's Membership Interest in the Company in compliance with this Article IX, the Person to whom the Member's Membership Interest was Transferred (the "Transferee") shall be admitted as a Member upon the Transferee's written acceptance and adoption of all of the terms and provisions of this Agreement and delivery to the Manager by the transferring Member and its Transferee of any other documents and instruments reasonably requested by the Manager.

(c) Notwithstanding the foregoing, no Transfer shall be recognized if the Manager reasonably believes that such Transfer would pose a material risk that the Company will be treated as a "publicly traded partnership" within the meaning of Section 7704 of the Code and the Tax Regulations promulgated thereunder.

9.02 Other Transfer Provisions. (a) Any purported Transfer by a Member of all or any part of its Membership Interest in violation of this Article IX shall be null and void and of no force or effect.

(b) Except as provided in this Article IX, no Member shall have the right to withdraw from the Company prior to its termination, and no additional Member may be admitted to the Company unless approved by the Manager. In the event that a Member purports to resign as a Member, such Member shall not be entitled to receive any Distributions and shall not otherwise be entitled to receive value for or in respect of its Membership Interest except as otherwise expressly provided herein. Notwithstanding any provision of this Agreement to the contrary, a Member may not Transfer all or any part of its Membership Interest if such Transfer would jeopardize the status of the Company as a partnership for federal income tax purposes or would violate, or would cause the Company to violate, any applicable law or regulation, including any applicable federal or state securities laws or any document or instrument evidencing indebtedness of the Company secured by the Company Property.

(c) Concurrently with the admission of any Person as a substitute or additional Member, the Members shall forthwith cause any necessary papers to be filed and recorded and notice to be given wherever and to the extent required showing the substitution of the Transferee as a substitute Member in place of the Member transferring its Membership Interest, or the admission of an additional Member, all at the expense, including payment of any professional and filing fees incurred, of such substituted or additional Member.

(d) If any Membership Interest of a Member is transferred during any accounting period in compliance with the provisions of this Article IX, each item of income, gain, loss, expense, deduction and credit and all other items attributable to such Membership Interest for such period shall be divided and allocated between the transferor and the Transferee by taking into account their varying Membership Interests during such period in accordance with Section 706(d) of the Code, using any conventions permitted by law and selected by the Manager. All Distributions on or before the date of such Transfer shall be made to the transferor, and all Distributions thereafter shall be made to the Transferee. Solely for purposes of making such allocations and Distributions, the Company shall recognize a Transfer on the date that the Manager receives notice of the Transfer which complies with this Article IX from the Member transferring its Membership Interest.

(e) If a Member Transfers its Interest in accordance with this Agreement, then, at the election of such Member, the Company will make a Section 754 election under the Code.

9.03 Drag-Along Right. If CHM desires to Transfer all or any portion of its Membership Interests, then CHM shall provide written notice (a "Sale Notice") thereof to the other Members disclosing the identity of the proposed transferee (the "Purchaser"), the consideration payable to CHM or its

constituent owners (the “Drag-Along Purchase Price”), and a summary of the other material business terms of such transaction, as applicable and CHM shall have the right to deliver a notice (a “Drag Along Notice”), electing to require the other Members (the “Non-Dragging Members”) to Transfer their entire Membership Interests to the Purchaser identified in the Sale Notice for a purchase price equal to the Drag-Along Purchase Price and otherwise on the terms and conditions set forth in the Sale Notice. If CHM shall deliver a Drag Along Notice, then the Non-Dragging Members shall be obligated to Transfer their Membership Interests or, at CHM’s election, the Company may deliver one or more instruments of conveyance of the Company’s assets or otherwise structure such Transfer as an asset sale rather than a sale of Membership Interests. At Closing, the Non-Dragging Members shall receive their pro rata portion of the Drag-Along Purchase Price in proportion to their respective Membership Interests subject to the adjustments and other business terms as set forth in the Drag Along Notice. The closing of any such Transfer shall occur on the date specified in writing by CHM to the Non-Dragging Members, and at the closing each Member shall pay its ratable share of any transfer, gains or similar taxes (but not any income or capital gains taxes) arising out of such transaction (except that a Member which is exempt from the payment of same shall have no obligation in such regard). At Closing, the Non-Dragging Members shall, at their sole cost and expense, deliver the Non-Dragging Member’s Membership Interests free and clear of any liens, encumbrances or any interests of any other Person and the Non-Dragging Member shall execute (A) any and all documents required to fully transfer good and clear title to the Membership Interests to be transferred, and (B) any other documentation reasonably required by CHM or the Purchaser. CHM shall have no liability whatsoever to the Non-Dragging Member if the Transfer described in the Sale Notice does not close. Anything to the contrary set forth herein notwithstanding, in the event that CHM exercises its Drag-Along Right and the proposed sale transaction is consummated, all of the net proceeds generated by the sale of the Membership Interests of the Members shall be distributed in accordance with the provisions of Section 6.03 of this Agreement.

9.04 Option to Purchase Membership Interest. At any time from and after the fifteenth (15th) anniversary of the effective date of this Agreement, CHM shall have the option, exercisable by notice to the other Members (the “Optionee”), to purchase all or any portion of the Membership Interests held by such other Members at a price equal to the then Fair Market Value of the subject Membership Interests taking into account the minority interest represented by such Membership Interests (the “Call Notice”). The Call Notice shall contain the purchase price based on the Fair Market Value of the Membership Interests and all other material terms and conditions of such sale. For purposes hereof, the Fair Market Value shall mean that value established by an appraiser or other professional with at least 10 years’ experience in making such evaluations selected and retained by CHM at its sole cost and expense. The closing of any such Transfer pursuant to this Section 9.04 shall occur on the date specified in the Call Notice, and at the closing each Member shall pay its ratable share of any transfer, gains or similar taxes (but not any income or capital gains taxes) arising out of such transaction (except that a Member which is exempt from the payment of same shall have no obligation in such regard). At Closing, the transferring Members shall, at their sole cost and expense, deliver the transferring Member’s Membership Interests free and clear of any liens, encumbrances or any interests of any other Person and the transferring Member shall execute (A) any and all documents required to fully transfer good and clear title to the Membership Interests to be transferred, and (B) any other documentation reasonably required by CHM. CHM shall have no liability whatsoever to the transferring Member if the Transfer described in the Call Notice does not close. Anything to the contrary set forth herein notwithstanding, in the event that CHM exercises its option pursuant to the provisions of this Section 9.04 and the proposed sale transaction is consummated, all of the net proceeds generated by the sale of the Membership Interests of the Members shall be distributed in accordance with the provisions of Section 6.03 of this Agreement.

ARTICLE X

EXCULPATION AND INDEMNIFICATION

10.01 Exculpation. No Member, general or limited partner of any Member, shareholder or member or other holder of an equity interest of any Member or manager, officer or director of any of the foregoing, shall be liable to the Company or to any other Member for monetary damages for any losses, claims, damages or liabilities arising from any act or omission performed or omitted by it and arising out of or in connection with this Agreement or the Company's business or affairs; provided, however, such act or omission was taken in good faith, was reasonably believed to be in the best interests of the Company and was within the scope of authority granted to such Person, and in the case of a Member or related Person, was not attributable to such Member's or Person's fraud, bad faith, willful misconduct or gross negligence. No general or limited partner of any Member, shareholder, member or other holder of an equity interest in such Member or manager, officer or director of any of the foregoing shall be personally liable for the performance of any such Member's obligations of this Agreement, but the foregoing shall not relieve any partner or member of any Member from its obligations to such Member.

10.02 Indemnification. The Company shall, to the fullest extent permitted by applicable law, indemnify, defend and hold harmless each Member and each general or limited partner of any Member or such Member's Affiliate, shareholder, member or other holder of any equity interest in such Member or its Affiliate, any Guarantor or any manager, officer or director of any of the foregoing (collectively, the "Indemnitees"), from and against any losses, claims, demands, liabilities, costs, damages, expenses and causes of action to which such Indemnitee may become subject in connection with any matter arising out of or incidental to any act performed or omitted to be performed by any such Indemnitee in connection with this Agreement or the Company's business or affairs; provided, however, that such act or omission was taken in good faith, was reasonably believed by the applicable Indemnitee to be in the best interest of the Company and within the scope of authority granted to such member or applicable Indemnitee, and in the case of a Member or related Indemnitee, was not attributable to such Indemnitee's fraud, bad faith, willful misconduct or gross negligence. Any indemnity under this Section 10.02 shall be paid solely out of and to the extent of Company assets and shall not be a personal obligation of any Member and in no event will any Member be required, or permitted without the consent of the Members, to contribute additional capital under Section 4.03 to enable the Company to satisfy any obligation under this Section 10.02. All judgments against the Company and the Members, or one or more thereof, wherein such Member (or Members) is entitled to indemnification, must first be satisfied from Company assets before the Members shall be responsible therefor.

(b) The Company and the other Members shall be indemnified and held harmless by each Member from and against any and all claims, demands, liabilities, costs, damages, expenses and causes of action of any nature whatsoever arising out of or attributable to any act performed or omitted to be performed by any such Member in connection with this Agreement or the Company's business or affairs other than (i) any act performed by or on behalf of any such Member which is not performed in good faith or is not reasonably believed by such Member to be in the best interest of the Company and within the scope of authority conferred upon such Member under this Agreement, or (ii) the fraud, bad faith, willful misconduct or gross negligence of such Member.

ARTICLE XI

DISSOLUTION AND TERMINATION

11.01 Dissolution. The Company shall be dissolved and its business wound up upon the earliest to occur of any of the following events:

(a) the sale or other disposition of all Business Interests and the receipt of all consideration therefore unless the Manager elects not to dissolve the Company prior to the occurrence of such event;

(b) Judicial dissolution of the Company in accordance with Section 18-892 of the Delaware Act; or

(c) The occurrence of any event that causes the last remaining Member of the Company to cease to be a Member of the Company (other than upon continuation of the Company without dissolution upon (i) an assignment by a Member of all of its limited liability company interest in the Company and the admission of the transferee in accordance with this Agreement, or (ii) the resignation of a Member and the admission of an additional member of the Company in accordance with this Agreement), to the fullest extent permitted by law, the personal representative of such Member is hereby authorized to, and shall, within ninety (90) days after the occurrence of the event that terminated the continued membership of such Member in the Company, agree in writing (i) to continue the Company and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of the Company, effective as of the occurrence of the event that terminated the continued membership of such Member in the Company.

Without limitation on, but subject to, the other provisions hereof, the assignment of all or any part of a Member's Membership Interest permitted hereunder will not, in and of itself, result in the dissolution of the Company. Except as otherwise specifically provided in this Agreement, each Member agrees that, to the fullest extent permitted by law, without the consent of the other Members, no Member may resign from or cause a voluntary dissolution of the Company. In the event any Member resigns from or causes a voluntary dissolution of the Company in contravention of this Agreement, such resignation or the causing of a voluntary dissolution shall not affect such Member's liability for obligations of the Company.

11.02 Termination. In all cases of dissolution of the Company, the business of the Company shall be wound up and the Company terminated as promptly as practicable thereafter, and each of the following shall be accomplished:

(a) The Liquidating Member shall cause to be prepared a statement setting forth the assets and liabilities of the Company as of the date of dissolution, a copy of which statement shall be furnished to all of the Members.

(b) The Business Interests shall be liquidated by the Liquidating Member as promptly as possible, but in an orderly and businesslike and commercially reasonable manner.

(c) The proceeds of sale and all other assets of the Company shall be applied and distributed as follows and in the following order of priority:

(i) to creditors of the Company, including Members who are creditors, to the extent otherwise permitted by law, in satisfaction of the liabilities of the Company (whether by payment or the making of reasonable provision for payment thereof). The Liquidating Member may establish reserves as a means of making reasonable provision for payment of the Company's creditors. Such reserves may, in the discretion of the Liquidating Member, be paid over to a national bank or national title company selected by it and authorized to conduct business as an escrow agent to be held by such bank or title company as escrow agent for the purposes of disbursing such reserves to satisfy the liabilities and obligations described

above. At the expiration of such period as the Liquidating Member may reasonably deem advisable and in accordance with the Delaware Act, any remaining balance of such reserves shall be distributed as provided in Section 11.02(c)(ii).

- (ii) The balance, if any, to the Members in accordance with Section 6.03.

11.03 Liquidating Member. The Liquidating Member is hereby irrevocably appointed as the true and lawful attorney in the name, place and stead of each of the Members, such appointment being coupled with an interest, to make, execute, sign, acknowledge and file with respect to the Company all papers which shall be necessary or desirable to effect the dissolution and termination of the Company in accordance with the provisions of this Article XI. Notwithstanding the foregoing, each Member, upon the request of the Liquidating Member or the Members, shall promptly execute, acknowledge and deliver all such documents, certificates and other instruments as the Liquidating Member or the Members shall reasonably request to effectuate the proper dissolution and termination of the Company, including the winding up of the business of the Company.

11.04 Claims of the Members. Members and former Members shall look solely to the Company's assets for the return of their Capital Contributions, and if the assets of the Company remaining after payment of or due provision for all debts, liabilities and obligations of the Company are insufficient to return such Capital Contributions, the Members and former Members shall have no recourse against the Company or any other Member.

ARTICLE XII

INTENTIONALLY OMITTED

ARTICLE XIII

MISCELLANEOUS

13.01 Representations and Warranties of the Members.

- (a) Each Member represents and warrants to the other Members as follows:

- (i) In the case of a Member which is an entity, it is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation with all requisite power and authority to enter into this Agreement and to conduct the business of the Company.

- (ii) This Agreement constitutes the legal, valid and binding obligation of the Member enforceable in accordance with its terms.

- (iii) No consents or approvals are required from any governmental authority or other person or entity for the Member to enter into this Agreement and the Company. All limited liability company, corporate or partnership action on the part of the Member necessary for the authorization, execution and delivery of this Agreement, and the consummation of the transactions contemplated hereby, have been duly taken.

- (iv) The execution and delivery of this Agreement by each Member, and the consummation of the transactions contemplated hereby, do not conflict with or contravene the provisions of its organizational documents or any agreement or instrument by which it or its properties are bound or any law, rule, regulation, order or decree to which it or its properties are subject.

- (v) No Member has retained any broker, finder or other commission or fee agent (and no such person has acted on any Member's behalf) in connection with the acquisition of the Company Property or the execution and delivery of this Agreement.

(vi) It understands that (A) an investment in the Company involves substantial and a high degree of risk, (B) no federal or state agency has passed on the offer and sale of the Membership Interests in the Company to such Person, (C) it must bear the economic risk of such Person's investment in the Company for an indefinite period of time, since such Person's Membership Interest in the Company has not been registered for sale under the Securities Act of 1933 and, therefore, cannot be sold or otherwise transferred unless subsequently registered under the Securities Act of 1933 or an exemption from such registration is available, and the Membership Interest in the Company of such Person cannot be sold or otherwise transferred unless registered under applicable state securities or blue sky laws or an exemption from such registration is available, (D) there is no established market for the Membership Interest of such Person in the Company and no public market will develop and (E) such Person's principals have such knowledge and experience in financial and business matters that they are capable of evaluating the merits and risks of an investment in the Company.

13.02 Further Assurances. Each Member agrees to execute, acknowledge, deliver, file, record and publish such further instruments and documents, and do all such other acts and things as may be required by law, or as may be required to carry out the intent and purposes of this Agreement.

13.03 Notices. Whenever notice is required or permitted by this Agreement to be given, such notice shall be in writing and shall be given to any Member or the Manager at its address (including via electronic mail) or facsimile number shown in the Company's books and records. Each such notice shall be effective if given by (i) facsimile, upon oral confirmation of receipt, (ii) mail, on the fourth (4th) day after deposit in the mails (certified or registered, return receipt requested) addressed as aforesaid, (iii) overnight courier service, when received, and (iv) any other means, when delivered to and received at the address of such Member or the Manager specified as aforesaid.

13.04 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware applicable to agreements made and to be performed wholly within that State.

13.05 Attorney Fees. If the Company or any Member obtains a judgment against any Member by reason of the breach of this Agreement or the failure to comply with the terms hereof, reasonable attorneys' fees and costs as fixed by the court shall be included in such judgment.

13.06 Captions. All titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision in this Agreement.

13.07 Pronouns. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, and neuter, singular and plural, as the identity of the party or parties may require.

13.08 Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective executors, administrators, legal representatives, heirs, successors and assigns, and shall inure to the benefit of the parties hereto and, except as otherwise provided herein, their respective executors, administrators, legal representatives, heirs, successors and assigns.

13.09 Extension Not a Waiver. No delay or omission in the exercise of any power, remedy or right herein provided or otherwise available to a Member or the Company shall impair or affect the right of such Member or the Company thereafter to exercise the same. Any extension of time or other indulgence granted to a Member hereunder shall not otherwise alter or affect any power, remedy or right of any other Member or of the Company, or the obligations of the Member to whom such extension or indulgence is granted.

13.10 Creditors Not Benefited. Nothing contained in this Agreement is intended to, and nothing contained in this Agreement shall, be deemed to benefit any creditor of the Company or any Member, and no creditor of the Company shall be entitled to require the Company or the Members to solicit or accept any Additional Capital Contribution for the Company or to enforce any right which the Company or any Member may have against any Member under this Agreement or otherwise.

13.11 Recalculation of Interest. If any applicable law is ever judicially interpreted so as to deem any distribution, contribution, payment or other amount received by any Member or the Company under this Agreement as interest and so as to render any such amount in excess of the maximum rate or amount of interest permitted by applicable law, then it is the express intent of the Members and the Company that all amounts in excess of the highest lawful rate or amount theretofore collected be credited against any other distributions, contributions, payments or other amounts to be paid by the recipient of the excess amount or refunded to the appropriate Person, and the provisions of this Agreement immediately be deemed reformed, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the payment of the fullest amount otherwise required hereunder. All sums paid or agreed to be paid that are judicially determined to be interest shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the term of such obligation so that the rate or amount of interest on account of such obligation does not exceed the maximum rate or amount of interest permitted under applicable law.

13.12 Severability. In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and other application thereof shall not in any way be affected or impaired thereby.

13.13 Entire Agreement. This Agreement contains the entire agreement between the parties relating to the subject matter hereof and all prior agreements relative hereto which are not contained herein are terminated. Amendments, variations, modifications or changes herein may be made effective and binding upon the Members by, and only by, the setting forth of same in a document duly executed by each Member, and any alleged amendment, variation, modification or change herein which is not so documented shall not be effective as to any Member.

13.14 Publicity. The parties agree that no Member shall issue any press release or otherwise publicize or disclose the terms of this Agreement or the proposed terms of any acquisition of a Business Interest, without the consent of the Manager.

13.15 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which together shall constitute but one and the same agreement.

13.16 Confidential Information.

(a) The terms of this Agreement, the identity of any Person with whom the Company may be holding discussions with respect to any investment, acquisition, disposition or other transaction, and all other business, financial or other information relating directly to the conduct of the business and affairs of the Company or the relative or absolute rights or interests of any of the Members (collectively, the “Confidential Information”) that is not already publicly available or that has not been publicly disclosed pursuant to authorization by the Manager, is confidential and proprietary information of the Company, the disclosure of which would cause irreparable harm to the Company and the Members. Accordingly, each Member represents that it has not and agrees that it will not and will direct its shareholders, partners, directors, officers, agents, advisors and Affiliates not to, disclose to any Person any Confidential Information or confirm any statement made by third Persons regarding Confidential Information until the Company has publicly disclosed the Confidential Information pursuant to authorization by the Manager;

provided, however, that any Member (or its Affiliates) may disclose such Confidential Information if required by law (it being specifically understood and agreed that anything set forth in a registration statement or any other document filed pursuant to law will be deemed required by law), if necessary for it to perform any of its duties or obligations hereunder or in any agreement to which it is a party covering any Company Business Interests, in connection with a litigation or to market the Company Business Interests or any Membership Interests as permitted herein, and to its attorneys, investors, brokers, lenders and advisors who agree to maintain a similar confidence.

(b) Subject to the provisions of Section 13.16(a), each Member agrees not to disclose any Confidential Information to any Person (other than a Person (including without limitation an attorney or advisor) agreeing to maintain all Confidential Information in strict confidence or a judge, magistrate or referee in any action, suit or proceeding relating to or arising out of this Agreement or otherwise), and to keep confidential all documents (including without limitation, responses to discovery requests) containing any Confidential Information. Each Member hereby consents in advance to any motion for any protective order brought by any other Member represented as being intended by the movant to implement the purposes of this Section 13.16, provided that, if a Member receives a request to disclose any Confidential Information under the terms of a valid and effective order issued by a court or governmental agency then such Member may disclose the Confidential Information to the extent required if the Member as promptly as practicable (i) notifies the Manager of the existence, terms and circumstances of the order, and (ii) exercises its best efforts to obtain a protective order or other reliable assurance that confidential treatment will be accorded to the portion of the disclosed Confidential Information that any other Member designates. The cost (including without limitation, attorneys' fees and expenses) of obtaining a protective order covering Confidential Information designated by such other Member will be borne by the Company.

(c) The covenants contained in this Section 13.16 will survive the Transfer of the Membership Interest of any Member and the termination of the Company.

13.17 Venue. Each of the Members consents to the jurisdiction of any court in New York, New York for any action arising out of matters related to this Agreement. Each of the Members waives the right to commence an action in connection with this Agreement in any court outside of New York, New York.

13.18 Waiver of Jury Trial. EACH OF THE MEMBERS HEREBY WAIVES TRIAL BY JURY IN ANY ACTION ARISING OUT OF MATTERS RELATED TO THIS AGREEMENT, WHICH WAIVER IS INFORMED AND VOLUNTARY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW]

IN WITNESS, the parties executed this Operating Agreement on the date first written above.

MANAGER:

CASTELLAN HOLDINGS MANAGER LLC,
a Delaware limited liability company



By: _____

Name: John B. Salib

Its: Managing Member

FOR INDIVIDUALS:

Print Name

Signature

Home Address

Telephone Number

E-mail Address

Social Security No.

FOR ENTITIES:

Print Name of Entity

Signature of Authorized Signatory

Print Name of Authorized Signatory

Print Title of Authorized Signatory

Business Address

Business Telephone Number

E-mail Address

Taxpayer Identification Number

CASTELLAN HOLDINGS LLC

By: CASTELLAN HOLDINGS MANAGER LLC

By: _____

Name:

Title:

EXHIBIT B

RISK FACTORS

PROSPECTIVE SUBSCRIBERS SHOULD CAREFULLY CONSIDER, AMONG OTHER FACTORS, THE MATTERS DESCRIBED BELOW, EACH OF WHICH COULD HAVE AN ADVERSE EFFECT ON THE VALUE OF THE MEMBERSHIP INTERESTS. AS A RESULT OF THESE FACTORS, AS WELL AS OTHER RISKS INHERENT IN ANY INVESTMENT OR SET FORTH IN THE MEMORANDUM, THERE CAN BE NO ASSURANCE THAT CASTELLAN HOLDINGS LLC (THE “COMPANY”) WILL MEET ITS INVESTMENT OBJECTIVES. THE COMPANY’S RETURNS MAY BE UNPREDICTABLE AND, ACCORDINGLY, AN INVESTMENT IN THE COMPANY MAY NOT BE SUITABLE AS THE SOLE INVESTMENT VEHICLE FOR A SUBSCRIBER, OR AS A PART OF A PORTFOLIO OF INVESTMENTS HELD BY SUCH SUBSCRIBER. A SUBSCRIBER SHOULD ONLY INVEST IN THE COMPANY AS PART OF AN OVERALL INVESTMENT STRATEGY AND ONLY IF THE SUBSCRIBER IS ABLE TO WITHSTAND A TOTAL LOSS OF ITS INVESTMENT. SUBSCRIBERS SHOULD NOT CONSTRUE THE PERFORMANCE OF CASTELLAN REAL ESTATE PARTNERS AND ITS AFFILIATES AS PROVIDING ANY ASSURANCES REGARDING THE FUTURE PERFORMANCE OF THE COMPANY.

Economic and Business Considerations

Insurance Will Not Cover All Losses. While the entity (the “**Property Owner**”) which owns the real estate interests directly or indirectly held by the Company (collectively, the “**Property**”) maintains comprehensive insurance on the Property, including liability and fire and extended coverage, in amounts sufficient to permit the replacement of the assets in the event of a total loss, subject to applicable deductibles and has obtained coverage of the types and in the amounts customarily obtained by owners of similar properties. There are certain types of losses, however, generally of a catastrophic nature, including, without limitation, terrorist strikes, earthquakes, floods and hurricanes, which may be uninsurable or not economically insurable. Inflation, changes in building or zoning codes and ordinances, environmental considerations, and other factors may also make it infeasible to use insurance proceeds to replace the Property if damaged or destroyed. If an uninsured property loss or a property loss in excess of insured limits were to occur, the Company could lose its capital invested in the Property Owner, as well as the anticipated future revenues from the Property Owner. The Property Owner would also continue to be obligated to repay any mortgage indebtedness or other obligations related to the Property.

If an uninsured liability to a third party were to occur, the Company would incur the cost of defense and settlement with, or court ordered damages to, that third party. With respect to terrorism risks, the Terrorism Risk Insurance Act of 2002 (“**TRIA**”), which originally established a three-year federal program under which the federal government and the insurance industry share in the risk of loss associated with certain terrorist attacks, has been extended by the Terrorism Risk Insurance Program Reauthorization Act of 2007 (“**TRIPRA**”) and TRIPRA is now scheduled to expire on December 31, 2014. There is no assurance that subsequent terrorism legislation will be passed, and TRIPRA insurance coverage is limited to specific acts of foreign terrorism that are certified by the U.S. Department of Treasury (such coverage is known as TRIPRA “certified terrorism” insurance). Acts of domestic terrorists, and domestic or foreign nuclear, biological and chemical acts of terrorism, are not covered by TRIPRA insurance. Insurance for acts outside of TRIPRA, known as “Non-Certified Acts”, must be obtained elsewhere and might not always be available or economically insurable, and insurance for nuclear, biological and chemical acts for certified and non-certified acts of terrorism are routinely not available.

Changes in and Compliance with Applicable Laws. Compliance with changes in laws increasing the potential liability for environmental conditions existing on properties or the restrictions on discharges or other conditions, or other governmental rules and regulations or enforcement policies affecting the use and operation of the Property, including changes to building codes and fire and life safety codes, may result in significant unanticipated expenditures. Under the Americans with Disabilities Act of 1990 (the “**ADA**”), all public properties located in the United States are required to meet certain federal requirements related to access and use by disabled persons. The Property may not be in compliance with the ADA. If the Property is not in compliance with the ADA, the Property Owner may be required

to make modifications to the Property to bring it into compliance, or face the possibility of an imposition of fines or an award of damages to private litigants.

Adverse Effect on Results of Operations Due to Possible Environmental Liabilities. The Property Owner's operating costs may be affected by the obligation to pay for the cost of complying with existing environmental laws, ordinances and regulations, as well as the cost of complying with future legislation with respect to assets, or loans secured by assets, with environmental problems that materially impair the value of the assets. Under various federal, state and local environmental laws, ordinances and regulations, a current or previous owner or operator of real property may be liable for the costs of removal or remediation of hazardous or toxic substances on, under, or in such property. Such laws often impose liability whether or not the owner or operator knew of, or was responsible for, the presence of such hazardous or toxic substances. In addition, the presence of hazardous or toxic substances, or the failure to remediate properly such property, may adversely affect the owner's ability to borrow by using such real property as collateral and may create a lien on the contaminated site in favor of the government for damages and costs it incurs as a result of the contamination. Persons who arrange for the transportation, disposal or treatment of hazardous or toxic substances may also be liable for the costs of removal or remediation of such substances at the disposal or treatment facility, whether or not such facility is or ever was owned or operated by such person. Certain environmental laws and common law principles could be used to impose liability for releases of hazardous materials, including asbestos-containing materials ("ACMs"), into the environment, and third parties may seek recovery from owners or operators of real properties for personal injury associated with exposure to released ACMs or other hazardous materials. Environmental laws may also impose restrictions on the manner in which a property may be used or transferred or in which businesses may be operated, and these restrictions may require expenditures. In connection with the ownership and operation of the Property, the Property Owner may be potentially liable for any such costs and may be limited in its operation of the Property by such restrictions. The cost of defending against claims of liability or remediating contaminated property and the cost of complying with such environmental laws could materially adversely affect the Property Owner's results of operations and financial condition.

In connection with the acquisition of the Property, the Property Owner procured Phase I environmental site assessments ("ESAs") prepared by qualified independent environmental engineers. The purpose of ESAs is to identify potential sources of contamination for which the real estate may be responsible and to assess the status of environmental regulatory compliance. It is possible, however, that these ESAs did not reveal all environmental liabilities or that such real estate may be subject to material environmental liabilities of which the Company is unaware.

Air Quality at the Property. Complaints about poor indoor air quality at the Property could necessitate costly investigation and remediation activities. Indoor air quality issues can stem from inadequate ventilation, chemical contaminants from indoor or outdoor sources, and biological contaminants such as bacteria, molds, pollen and viruses. Chemical contaminants, including volatile organic compounds, naturally emanate from common indoor sources such as adhesives, carpeting, upholstery, manufactured wood products, copy machines, pesticides and cleaning agents. Outdoor contaminants such as pollutants from motor vehicle exhaust, plumbing exhaust and building exhausts can also enter buildings through air intake vents, windows and other openings. In addition, bacteria, molds, pollen and viruses may grow in moisture that accumulates in buildings or on building materials, particularly if the moisture problem remains undiscovered. Indoor exposure to chemical or biological contaminants above certain levels can cause a variety of health effects and symptoms in susceptible individuals, which the popular press sometimes dubs "sick building syndrome" or "building related illnesses." If these conditions were to occur at the Property, the Property Owner may need to undertake a targeted remediation program, including steps to increase indoor ventilation rates and the installation of high performance air filters and/or absorbent beds. Such remediation programs could be costly, necessitate the temporary relocation of some or all of the Property's tenants or in extreme cases require extensive rehabilitation of the Property.

Leverage. The Property Owners intend to obtain mortgage financing which will be used to recapitalize the acquisition of the Property. While such leverage reduces the equity utilized by the Property Owner in its purchase of the Property, it will also increase the risk of investment loss and increase the exposure to adverse economic factors such as rising interest rates, severe economic downturns or deterioration in the condition of a real estate investment or its market. If the Property Owner defaults on the indebtedness secured by the Property, the lender may foreclose and the Property Owner could lose its entire investment. Moreover, there can be no assurance that the Property Owner

will be able to obtain mortgage or other debt financing for the Property, or, if debt financing is available, that it will be on terms that are acceptable to the Property Owner.

Investment Activity Considerations

Real Estate Is Illiquid and Revenue and Value Are Dependent on Conditions Beyond the Property Owner's Control. Real estate investments are relatively illiquid. Consequently, the ability of the Property Owner to respond to changes in economic and other conditions will be limited. Because real estate, like many other types of long-term investments, historically has experienced significant fluctuation and cycles in value, specific market conditions may result in occasional or permanent reductions in the value of the Property. The underlying value of the Property and the Property Owner's income are dependent upon the ability of the Property Owner to operate the Property in a manner sufficient to maintain or increase revenues in excess of operating expenses and debt service and on the ability of the lessees of the Property to make rent payments.

If the Property does not generate revenues sufficient to meet operating expenses, including debt service and capital expenditures, the Property Owner's cash flow will be adversely affected. Revenues may be adversely affected by several factors beyond the control of the Property Owner, including without limitation: (i) adverse changes in national or local economic conditions; (ii) competition from other properties offering the same or similar services; (iii) changes in interest rates and in the availability, cost and terms of mortgage funds; (iv) the impact of present or future environmental legislation and compliance with environmental laws or of environmental remediation; (v) the ongoing need for capital improvements; (vi) changes in real estate tax rates and other operating expenses; (vii) adverse changes in governmental rules and fiscal policies; (viii) civil unrest; (ix) acts of God, including, without limitation, earthquakes, hurricanes and other natural disasters (which may result in uninsured losses); (x) acts of war or terrorism (which may result in uninsured losses); (xi) adverse changes in zoning laws; and (xii) other factors which are beyond the control of the Property Owner in whole or in part.

The projected revenues of the Property are based, in part, on the assumption that residential and retail market rents are higher than current in place rents for the Property, and that when residential units become vacant, after capital improvements are made to such units, they will be able to be leased at market rents. Under applicable rent-regulatory laws, however, depending on the amount of the rent at the time a residential unit becomes vacant and the cost and nature of the capital improvements made, it is possible that the unit will remain subject to government regulation as to rentals and continued occupancy. Even if a residential unit that becomes vacant was able to be leased at its market rent, because of changes in economic conditions that may occur between now and the time such residential unit becomes vacant, it is possible that the market rent for such unit will be significantly less than it is at present.

The New York State Legislature is Considering a Number of "Pro-Tenant" Bills that Could Impair the Performance of the Property. The New York State Legislature is considering a raft of "pro-tenant" bills that would restrict a landlord's ability to increase rents and remove units from rent stabilization. The fate of these bills is uncertain: their passage into law requires the approval of both houses of the New York State Legislature. However, the uncertain legislative climate surrounding rent stabilization should be considered prior to making any investment in the Company.

The Property May Fail to Meet Performance Expectations; Inherent Uncertainty of Projections. A number of factors could prevent the Property from performing as expected. Estimates of future income, expenses and the costs of improvements necessary for the Property Owner to operate the Property as originally intended may prove to be inaccurate. In addition, there is a risk that the cash flow from the Property will be insufficient to meet debt service obligations of the Property Owner.

Management of each Property Owner has determined the appropriate capital structure for each Property based upon financial projections for the Property. Projected operating results will normally be based primarily on management's judgments. In all cases, projections are only estimates of future results based upon assumptions made at the time the projections are developed. There can be no assurance that the projected results will be obtained, and actual results may vary significantly from the projections. There can be no assurance that the Property Owner will achieve its investment objectives or targeted returns, and there can be no guarantee that capital contributed by Subscribers will be returned.

Competition for Tenants. Other properties compete with the Property in attracting tenants. If the demand for rental properties is reduced, or if competing properties are more cost-effective, rental rates may decrease, which may have an adverse effect on the income generated from the Property and its underlying value. In addition, the manager of the Property Owner or any affiliate or principal of the manager of the Property Owner, may own, operate and/or manage which may compete with the Property for tenants.

Phantom Income. Each member of the Company will be subject to tax on its allocable share of the Company's taxable income or loss, regardless of whether it has received any distribution of cash or property from the Company. The Company could realize taxable income prior to the receipt of cash or property with respect to such income (particularly if, for example, a large portion of the Company's cash flow is devoted to the amortization of indebtedness). The Company would generally be required to make a distribution with respect to its share of any such income. If the Company did not have available cash to make such a distribution, it may be required to declare a "consent dividend" which may result in "phantom income" to the members of the Company.

Distributions in Excess of Net Operating Income. The amount of the net cash flow generated by the Business Interests may be more than or less than the amounts Manager determines to distribute by the Company to the Members from time to time. The Manager determines the amount of the distribution considering the amount of funds on hand for reasonable working capital needs of the Company, including reserves for future Company obligations. While the Manager attempts to maximize the amount of such distributions, there can be no assurance that distributions will be made in any amounts or that once made future distributions of the same percentage return on capital will be made.

Legal and Other Considerations

No Market for Membership Interests. The Membership Interests will not be registered under the Securities Act of 1933, as amended, or any other securities law and will not ordinarily be transferable. Generally, the Membership Interests may not be transferred, pledged or otherwise encumbered other than in accordance with the Operating Agreement. There is no market for the Membership Interests and none is expected to develop. Therefore, each prospective Subscriber must consider its investment to be illiquid.

Limited Role of Placement Agent; No Underwriter. The placement agents have acted as the non-exclusive placement agents for the Company in connection with the offering of the Membership Interests. The placement agents are entitled to receive a fee from the Company for acting in such capacity. The offering price for the Membership Interests was determined by the Company. Neither the placement agent nor any underwriter determined the offering price. Neither the placement agent nor any underwriter has conducted any independent assessment of the offering price or confirmed the adequacy or accuracy of any of the information contained in the Memorandum.

Subscribers should consult with their own attorneys and investment, accounting, regulatory and tax advisors to determine the consequences of an investment in a Membership Interest and arrive at an independent evaluation of such investment. In making a decision to invest in a Membership Interest, Subscribers must rely on their own examination of the Membership Interests and the terms of the offering, including the merits and risks involved.

Passive Investment. Subscribers will have no right to control any of the business and affairs of the Company. Subscribers could disagree with actions taken by CASTELLAN HOLDINGS MANAGER LLC (the "**Manager**"), the sole manager of the Company. Actions taken by the Manager will be intended for the general welfare of the Company and its members. There can be no assurance that any such action will agree with or further the personal interests of each Subscriber.

Under the Operating Agreement, the consent of the members is required only in very limited circumstances. Accordingly, decisions covered by the plenary authority granted to the Manager under the Operating Agreement include, without limitation, the (i) making of additional capital contributions; (ii) distribution amount; (iii) approval of Membership Interest transfers; and (iv) dissolution of the Company.

Indemnification. In carrying out its duties as the sole manager of the Company, the Manager is required to act in good faith and with a degree of care that an ordinarily prudent person in a similar position would use under similar circumstances. The Company will indemnify and hold harmless the Manager against any loss, damage or expense incurred by it in connection with the Company's business, except to the extent such loss, damage or expense arises

from the Manager's failure to perform its duties in accordance with the standard set forth in the immediately preceding sentence.

Failure to Make Capital Contributions. If Subscribers fail to make required capital contributions when due, the Company's ability to operate the Business Interests may be substantially impaired. Any Subscriber who defaults in making a required capital contribution will be subject to certain penalties pursuant to the provisions of the Operating Agreement.

Forward-Looking Statements. The statements contained in the Memorandum that are not historical facts are forward-looking statements. These forward-looking statements are based on current expectations, beliefs, assumptions, estimates and projections about the industry and markets in which the Company expects to operate. Words such as "expect," "anticipate," "intend," "plan," "believe," "seek," "estimate," variations of such words and other similar expressions identify such forward-looking statements. Forward-looking statements contained in the Memorandum, or other statements made for or on behalf of the Company, either orally or in writing from time to time, are not guarantees of future performance and involve certain risks, uncertainties and assumptions which are difficult to predict. Therefore, actual outcomes and results may differ materially from what is expressed or forecasted in such forward-looking statements. These statements include, among other things, statements regarding the Company's intent, belief or expectations with respect to the target returns, IRR and distributions to Subscribers.

Subscribers should not rely on forward-looking statements because they involve known and unknown risks, uncertainties and other factors which are, in some cases, beyond the Company's control and may cause its actual results, performance or achievements to differ materially from anticipated future results, or the performance or achievements expressed or implied by such forward-looking statements.

While forward-looking statements in the Memorandum reflect the Company's estimates and beliefs, they are not guaranties of future performance. The Company has not undertaken to update any forward-looking statements to reflect changes in the underlying assumptions or factors, new information, future events or other changes.

The pro-formas contained in the Memorandum are based on the good faith estimates of the Company and are not representations or guaranties of the Company's performance. The actual holding period for any Business Interest may be longer or shorter than that provided in the pro-formas contained in the Memorandum. In the event the holding period is shorter, the internal rate of return may be higher. In the event the holding period is longer, the internal rate of return may be lower. The determination of whether to sell a Business Interest is at the sole discretion of the Manager.

Management and Resources of the Company. The Company is a recently formed enterprise and has a limited operating history. The officers and employees of the Company will devote such time as deemed necessary to carry out the Company's operations. However, no officer or employee of the Company will be required to devote full time to the Company's business and there may exist conflicts of interest in the allocation of management resources between the Company and other related or unrelated activities.

Certain Legal Matters

Securities Act of 1933; Other Laws. The Membership Interests have not been and will not be registered under the Securities Act of 1933, as amended, the securities laws of any State in the United States or the securities laws of any other jurisdiction, and the Company does not intend to register the Membership Interests under such laws, unless required to do so. The Membership Interests offered hereby are being offered in reliance upon the exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended, and Regulation D promulgated thereunder and other exemptions of similar import in the laws of the states and other jurisdictions where the Membership Interests are being offered.

Anti-Money Laundering and Similar Regulations. The Company may be required to comply with Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "**USA PATRIOT Act**") and any relevant regulations and any other applicable United States or other laws or regulations, including regulations promulgated by the Department of Treasury's Office of Foreign Assets

Control (“OFAC”). The Company may be required to obtain a detailed verification of the identity of each Subscriber, the identity of any beneficial owner of any such Subscriber, and the source of funds used to subscribe for a Membership Interest. Each prospective Subscriber shall be required to represent that it is not a prohibited person (a “**Prohibited Person**”), as defined by the USA PATRIOT Act, United States Executive Order 13224, and other relevant legislation and regulations, including regulations promulgated by OFAC.

Should a prospective Subscriber refuse to provide any information required for verification purposes, the Company may refuse to accept a subscription. The Company may request such additional information from prospective Subscribers as is necessary in order to comply with the USA PATRIOT Act, United States Executive Order 13224, and other relevant United States or other anti-money laundering legislation and regulations, including regulations promulgated by OFAC.

Potential Re-Regulation of De-Regulated Apartments. In the event any rent stabilized apartments at a Property are de-regulated as qualifying for luxury decontrol because (i) in the case of vacant apartments, the legal regulated rent was \$2,500 per month or more; and (ii) in the case of occupied apartments, the legal regulated rent was \$2,500 per month or more and the combined annual income of all occupants exceeded \$200,000, and the Property received tax abatements and/or exemptions allowed for a period of years to property owners who completed certain eligible projects at the Property under New York City’s J-51 program, authorized by Real Property Tax Law Section 489, such apartments may be required pursuant to recent case law to be restored to previously regulated rent status, the tenant entitled to a rent overcharge refund for any rent paid in excess of the regulated rent since the date of deregulation and the Property Owner may be subject to certain fines and penalties. Should the Company seek to deregulate an apartment at the Property as qualifying for luxury decontrol, there can be no assurance that deregulation of any particular apartment would be permitted.

EXHIBIT C

Federal Taxpayer Certification for US Persons

[NO FURTHER TEXT ON THIS PAGE]

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
	<input type="checkbox"/> Exempt payee	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number									

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a “saving clause.” Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called “backup withholding.” Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the “Name” line. You may enter your business, trade, or “doing business as (DBA)” name on the “Business name/disregarded entity name” line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the “Name” line and any business, trade, or “doing business as (DBA) name” on the “Business name/disregarded entity name” line.

Disregarded entity. Enter the owner's name on the “Name” line. The name of the entity entered on the “Name” line should never be a disregarded entity. The name on the “Name” line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the “Name” line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the “Business name/disregarded entity name” line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the “Name” line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the “Name” line is an LLC, check the “Limited liability company” box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter “P” for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter “C” for C corporation or “S” for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the “Name” line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the “Name” line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
 2. The United States or any of its agencies or instrumentalities,
 3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7 ²

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

Signature requirements. Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

EXHIBIT D

Federal Taxpayer Certification for Non-US Persons

[NO FURTHER TEXT ON THIS PAGE]



Instructions for Form W-8ECI

(Rev. February 2006)

Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Note. For definitions of terms used throughout these instructions, see *Definitions* beginning on page 2.

Purpose of form. Foreign persons are generally subject to U.S. tax at a 30% rate on income they receive from U.S. sources. However, no withholding under section 1441 or 1442 is required on income that is, or is deemed to be, effectively connected with the conduct of a trade or business in the United States and is includible in the beneficial owner's gross income for the tax year.

The no withholding rule does not apply to personal services income and income subject to withholding under section 1445 (dispositions of U.S. real property interests) or section 1446 (foreign partner's share of effectively connected income).

If you receive effectively connected income from sources in the United States, you must provide Form W-8ECI to:

- Establish that you are not a U.S. person,
- Claim that you are the beneficial owner of the income for which Form W-8ECI is being provided, and
- Claim that the income is effectively connected with the conduct of a trade or business in the United States.

If you expect to receive both income that is effectively connected and income that is not effectively connected from a withholding agent, you must provide Form W-8ECI for the effectively connected income and Form W-8BEN (or Form W-8EXP or Form W-8IMY) for income that is not effectively connected.

If you submit this form to a partnership, the income claimed to be effectively connected with the conduct of a U.S. trade or business is subject to withholding under section 1446. If a nominee holds an interest in a partnership on your behalf, you, not the nominee, must submit the form to the partnership or nominee that is the withholding agent.

If you are a foreign partnership, a foreign simple trust, or a foreign grantor trust with effectively connected income, you may submit Form W-8ECI without attaching Forms W-8BEN or other documentation for your foreign partners, beneficiaries, or owners.

A withholding agent or payer of the income may rely on a properly completed Form W-8ECI to treat the payment associated with the Form W-8ECI as a payment to a foreign person who beneficially owns the amounts paid and is either entitled to an exemption from withholding under sections 1441 or 1442 because the income is effectively connected with the conduct of a trade or business in the United States or subject to withholding under section 1446.

Provide Form W-8ECI to the withholding agent or payer before income is paid, credited, or allocated to you. Failure by a beneficial owner to provide a Form W-8ECI when requested may lead to withholding at the 30% rate or the backup withholding rate.

Additional information. For additional information and instructions for the withholding agent, see the Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY.

Who must file. You must give Form W-8ECI to the withholding agent or payer if you are a foreign person and you are the beneficial owner of U.S. source income that is (or is deemed to be) effectively connected with the conduct of a trade or business within the United States.

Do not use Form W-8ECI if:

- You are a nonresident alien individual who claims exemption from withholding on compensation for independent or certain dependent personal services performed in the United States. Instead, provide Form 8233, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, or Form W-4, Employee's Withholding Allowance Certificate.
- You are claiming an exemption from withholding under section 1441 or 1442 for a reason other than a claim that the income is effectively connected with the conduct of a trade or business in the United States. For example, if you are a foreign person and the beneficial owner of U.S. source income that is not effectively connected with a U.S. trade or business and are claiming a reduced rate of withholding as a resident of a foreign country with which the United States has an income tax treaty in effect, do not use this form. Instead, provide Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding.
- You are a foreign person receiving proceeds from the disposition of a U.S. real property interest. Instead, see Form 8288-B, Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.
- You are filing for a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section 115(2), 501(c), 892, 895, or 1443(b). Instead, provide Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding. However, these entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim exempt recipient status for backup withholding purposes. They should use Form W-8ECI if they received effectively connected income (for example, income from commercial activities).

- You are acting as an intermediary (that is, acting not for your own account or for that of your partners, but for the account of others as an agent, nominee, or custodian). Instead, provide Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding.
- You are a withholding foreign partnership or a withholding foreign trust for purposes of sections 1441 and 1442. A withholding foreign partnership is, generally, a foreign partnership that has entered into a withholding agreement with the IRS under which it agrees to assume primary withholding responsibility for each partner's distributive share of income subject to withholding that is paid to the partnership. A withholding foreign trust is, generally, a foreign simple trust or a foreign grantor trust that has entered into a withholding agreement with the IRS under which it agrees to assume primary withholding responsibility for each beneficiary's or owner's distributive share of income subject to withholding that is paid to the trust. Instead, provide Form W-8IMY.
- You are a foreign corporation that is a personal holding company receiving compensation described in section 543(a)(7). Such compensation is not exempt from withholding as effectively connected income, but may be exempt from withholding on another basis.
- You are a foreign partner in a partnership and the income allocated to you from the partnership is effectively connected with the conduct of the partnership's trade or business in the United States. Instead, provide Form W-8BEN. However, if you made or will make an election under section 871(d) or 882(d), provide Form W-8ECI. In addition, if you are otherwise engaged in a trade or business in the United States and you want your allocable share of income from the partnership to be subject to withholding under section 1446, provide Form W-8ECI.

Giving Form W-8ECI to the withholding agent. Do not send Form W-8ECI to the IRS. Instead, give it to the person who is requesting it from you. Generally, this will be the person from whom you receive the payment, who credits your account, or a partnership that allocates income to you. Give Form W-8ECI to the person requesting it before the payment is made, credited, or allocated. If you do not provide this form, the withholding agent may have to withhold at the 30% rate or the backup withholding rate. A separate Form W-8ECI must be given to each withholding agent.

U.S. branch of foreign bank or insurance company. A payment to a U.S. branch of a foreign bank or a foreign insurance company that is subject to U.S. regulation by the Federal Reserve Board or state insurance authorities is presumed to be effectively connected with the conduct of a trade or business in the United States unless the branch provides a withholding agent with a Form W-8BEN or Form W-8IMY for the income.

Change in circumstances. If a change in circumstances makes any information on the Form W-8ECI you have submitted incorrect, you must notify the withholding agent or payer within 30 days of the change in circumstances and you must file a new Form W-8ECI or other appropriate form. For example, if during the tax year any part or all of the income is no longer effectively connected with the conduct of a trade or business in the United States, your Form W-8ECI is no longer valid. You must notify the withholding agent and provide Form W-8BEN, W-8EXP, or W-8IMY.

Expiration of Form W-8ECI. Generally, a Form W-8ECI will remain in effect for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect. For example, a Form W-8ECI signed on September 30, 2005, remains valid through December 31, 2008. Upon the expiration of the 3-year period, you must provide a new Form W-8ECI.

Definitions

Beneficial owner. For payments other than those for which a reduced rate of withholding is claimed under an income tax treaty, the beneficial owner of income is generally the person who is required under U.S. tax principles to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

Foreign partnerships, foreign simple trusts, and foreign grantor trusts are not the beneficial owners of income paid to the partnership or trust. The beneficial owners of income paid to a foreign partnership are generally the partners in the partnership, provided that the partner is not itself a partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of income paid to a foreign simple trust (that is, a foreign trust that is described in section 651(a)) are generally the beneficiaries of the trust, if the beneficiary is not a foreign partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of a foreign grantor trust (that is, a foreign trust to the extent that all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679) are the persons treated as the owners of the trust. The beneficial owners of income paid to a foreign complex trust (that is, a foreign trust that is not a foreign simple trust or foreign grantor trust) is the trust itself.

Generally, these beneficial owner rules apply for purposes of sections 1441, 1442, and 1446, except that section 1446 requires a foreign simple trust to provide a Form W-8 on its own behalf rather than on behalf of the beneficiary of such trust.

The beneficial owner of income paid to a foreign estate is the estate itself.

A payment to a U.S. partnership, U.S. trust, or U.S. estate is treated as a payment to a U.S. payee. A U.S. partnership, trust, or estate should provide the withholding agent with a Form W-9. However, for purposes of section 1446, a U.S. grantor trust shall not provide the withholding agent a Form W-9. Instead, the grantor or other owner must provide Form W-8 or Form W-9 as appropriate.

Disregarded entity. A business entity that has a single owner and is not a corporation under Regulations section 301.7701-2(b) is disregarded as an entity separate from its owner.

A disregarded entity shall not submit this form to a partnership for purposes of section 1446. Instead, the owner of such entity shall provide appropriate documentation. See Regulations section 1.1446-1.

Effectively connected income. Generally, when a foreign person engages in a trade or business in the United States, all income from sources in the United States other than fixed or determinable annual or periodical (FDAP) income (for example, interest, dividends, rents, and certain similar amounts) is considered income effectively connected with a U.S. trade or business. FDAP income may or may not be effectively connected with a U.S. trade or business. Factors to be considered to determine whether FDAP income and similar amounts from U.S. sources are effectively connected with a U.S. trade or business include whether:

- The income is from assets used in, or held for use in, the conduct of that trade or business, or
- The activities of that trade or business were a material factor in the realization of the income.

There are special rules for determining whether income from securities is effectively connected with the active conduct of a U.S. banking, financing, or similar business. See section 864(c)(4)(B)(ii) and Regulations section 1.864-4(c)(5)(ii) for more information.

Effectively connected income, after allowable deductions, is taxed at graduated rates applicable to U.S. citizens and resident aliens, rather than at the 30% rate. You must report this income on your annual U.S. income tax or information return.

A partnership that has effectively connected income allocable to foreign partners is generally required to withhold tax under section 1446. The withholding tax rate on a partner's share of effectively connected income is 35%. In certain circumstances the partnership may withhold tax at the highest applicable rate to a particular type of income (for example long-term capital gain allocated to a noncorporate partner). Any amount withheld under section 1446 on your behalf, and reflected on Form 8805 issued by the partnership to you may be credited on your U.S. income tax return.

Foreign person. A foreign person includes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person that is not a U.S. person.

Nonresident alien individual. Any individual who is not a citizen or resident alien of the United States is a nonresident alien individual. An alien individual meeting either the "green card test" or the "substantial presence test" for the calendar year is a resident alien. Any person not meeting either test is a nonresident alien individual. Additionally, an alien individual who is a resident of a foreign country under the residence article of an income tax treaty, or an alien individual who is a bona fide resident of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa is a nonresident alien individual.



Even though a nonresident alien individual married to a U.S. citizen or resident alien may choose to be treated as a resident alien for certain purposes (for example, filing a joint income tax return), such individual is still treated as a nonresident alien for withholding tax purposes on all income except wages.

See Pub. 519, U.S. Tax Guide for Aliens, for more information on resident and nonresident alien status.

Withholding agent. Any person, U.S. or foreign, that has control, receipt, or custody of an amount subject to

withholding or who can disburse or make payments of an amount subject to withholding is a withholding agent. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies. Generally, the person who pays (or causes to be paid) an amount subject to withholding to the foreign person (or to its agent) must withhold.

Specific Instructions

Part I

Line 1. Enter your name. If you are filing for a disregarded entity with a single owner who is a foreign person, this form should be completed and signed by the foreign single owner. If the account to which a payment is made or credited is in the name of the disregarded entity, the foreign single owner should inform the withholding agent of this fact. This may be done by including the name and account number of the disregarded entity on line 8 (reference number) of Part I of the form.



If you own the income or account jointly with one or more other persons, the income or account will be treated by the withholding agent as owned by a foreign person if Forms W-8ECI are provided by all of the owners. If the withholding agent receives a Form W-9, Request for Taxpayer Identification Number and Certification, from any of the joint owners, the payment must be treated as made to a U.S. person.

Line 2. If you are filing for a corporation, enter the country of incorporation. If you are filing for another type of entity, enter the country under whose laws the entity is created, organized, or governed. If you are an individual, write "N/A" (for "not applicable").

Line 3. Check the box that applies. By checking a box, you are representing that you qualify for this classification. You must check the one box that represents your classification (for example, corporation, partnership, etc.) under U.S. tax principles. If you are filing for a disregarded entity, you must check the "Disregarded entity" box (not the box that describes the status of your single owner).

Line 4. Your permanent residence address is the address in the country where you claim to be a resident for that country's income tax. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you are an individual who does not have a tax residence in any country, your permanent residence is where you normally reside. If you are not an individual and you do not have a tax residence in any country, the permanent residence address is where you maintain your principal office.

Line 5. Enter your business address in the United States. Do not show a post office box.

Line 6. You must provide a U.S. taxpayer identification number (TIN) for this form to be valid. A U.S. TIN is a social security number (SSN), employer identification number (EIN), or IRS individual taxpayer identification number (ITIN). Check the appropriate box for the type of U.S. TIN you are providing.

If you are an individual, you are generally required to enter your SSN. To apply for an SSN, get Form SS-5 from a Social Security Administration (SSA) office. Fill in Form SS-5 and return it to the SSA.

If you do not have an SSN and are not eligible to get one, you must get an ITIN. To apply for an ITIN, file Form W-7 with the IRS. It usually takes 4-6 weeks to get an ITIN.

If you are not an individual (for example, a foreign estate or trust), or you are an individual who is an employer or who is engaged in a U.S. trade or business as a sole proprietor, use Form SS-4, Application for Employer Identification Number, to obtain an EIN. If you are a disregarded entity, enter the U.S. TIN of your foreign single owner.

Line 7. If your country of residence for tax purposes has issued you a tax identifying number, enter it here. For example, if you are a resident of Canada, enter your Social Insurance Number.

Line 8. This line may be used by the filer of Form W-8ECI or by the withholding agent to whom it is provided to include any referencing information that is useful to the withholding agent in carrying out its obligations. A beneficial owner may use line 8 to include the name and number of the account for which he or she is providing the form. A foreign single owner of a disregarded entity may use line 8 to inform the withholding agent that the account to which a payment is made or credited is in the name of the disregarded entity (see instructions for line 1 on page 3).

Line 9. You must specify the items of income that are effectively connected with the conduct of a trade or business in the United States. You will generally have to provide Form W-8BEN, Form W-8EXP, or Form W-8IMY for those items from U.S. sources that are not effectively connected with the conduct of a trade or business in the United States. See Form W-8BEN, W-8EXP, or W-8IMY, and its instructions, for more details.

If you are providing this form to a partnership because you are a partner and have made an election under section 871(d) or section 882(d), attach a copy of the election to the form. If you have not made the election, but intend to do so effective for the current tax year, attach a statement to the form indicating your intent. See Regulations section 1.871-10(d)(3).

Part II

Signature. Form W-8ECI must be signed and dated by the beneficial owner of the income, or, if the beneficial

owner is not an individual, by an authorized representative or officer of the beneficial owner. If Form W-8ECI is completed by an agent acting under a duly authorized power of attorney, the form must be accompanied by the power of attorney in proper form or a copy thereof specifically authorizing the agent to represent the principal in making, executing, and presenting the form. Form 2848, Power of Attorney and Declaration of Representative, may be used for this purpose. The agent, as well as the beneficial owner, may incur liability for the penalties provided for an erroneous, false, or fraudulent form.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want to receive exemption from withholding on income effectively connected with the conduct of a trade or business in the United States, you are required to provide the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 3 hr., 35 min.; **Learning about the law or the form**, 3 hr., 22 min.; **Preparing the form**, 3 hr., 35 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can email us at [*taxforms@irs.gov](mailto:taxforms@irs.gov). Please put "Forms Comment" on the subject line. Or you can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form W-8ECI to this office. Instead, give it to your withholding agent.

**Certificate of Foreign Government or Other Foreign
Organization for United States Tax Withholding**
(For use by foreign governments, international organizations, foreign central banks of
issue, foreign tax-exempt organizations, foreign private foundations, and governments of
U.S. possessions.)

▶ Section references are to the Internal Revenue Code. ▶ See separate instructions.
▶ Give this form to the withholding agent or payer. Do not send to the IRS.

Do not use this form for:

- Any foreign government or other foreign organization that is not claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b). W-8BEN or W-8ECI
- A beneficial owner solely claiming foreign status or treaty benefits W-8BEN
- A foreign partnership or a foreign trust W-8BEN or W-8IMY
- A person claiming that income is effectively connected with the conduct of a trade or business in the United States W-8ECI
- A person acting as an intermediary W-8IMY

Instead, use Form:

Part I Identification of Beneficial Owner (See instructions before completing this part.)

1 Name of organization		2 Country of incorporation or organization	
3 Type of entity	<input type="checkbox"/> Foreign government <input type="checkbox"/> International organization <input type="checkbox"/> Government of a U.S. possession	<input type="checkbox"/> Foreign central bank of issue (not wholly owned by the foreign sovereign)	<input type="checkbox"/> Foreign tax-exempt organization <input type="checkbox"/> Foreign private foundation
4 Permanent address (street, apt. or suite no., or rural route). Do not use a P.O. box.			
City or town, state or province. Include postal code where appropriate.		Country (do not abbreviate)	
5 Mailing address (if different from above)			
City or town, state or province. Include postal or ZIP code where appropriate.		Country (do not abbreviate)	
6 U.S. taxpayer identification number, if required (see instructions)		7 Foreign tax identifying number, if any (optional)	
8 Reference number(s) (see instructions)			

Part II Qualification Statement

- 9 For a foreign government:**
- a I certify that the entity identified in Part I is a foreign government within the meaning of section 892 and the payments are within the scope of the exemption granted by section 892.
Check box 9b or box 9c, whichever applies:
- b The entity identified in Part I is an integral part of the government of
- c The entity identified in Part I is a controlled entity of the government of
- 10 For an international organization:**
- I certify that:
- The entity identified in Part I is an international organization within the meaning of section 7701(a)(18) **and**
 - The payments are within the scope of the exemption granted by section 892.
- 11 For a foreign central bank of issue (not wholly owned by the foreign sovereign):**
- I certify that:
- The entity identified in Part I is a foreign central bank of issue,
 - The entity identified in Part I does not hold obligations or bank deposits to which this form relates for use in connection with the conduct of a commercial banking function or other commercial activity, **and**
 - The payments are within the scope of the exemption granted by section 895.

(Part II and required certification continued on page 2)



Instructions for Form W-8EXP

(Rev. February 2006)

Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Note. For definitions of terms used throughout these instructions, see *Definitions* on pages 2 and 3.

Purpose of form. Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources that consists of interest (including certain original issue discount (OID)), dividends, rents, premiums, annuities, compensation for, or in expectation of, services performed, or other fixed or determinable annual or periodical gains, profits, or income. This tax is imposed on the gross amount paid and is generally collected by withholding under section 1441 or 1442 on that amount. A payment is considered to have been made whether it is made directly to the beneficial owner or to another person for the benefit of the beneficial owner.

Foreign persons are also subject to tax at graduated rates on income they earn that is considered effectively connected with a U.S. trade or business. If a foreign person invests in a partnership that conducts a U.S. trade or business, the foreign person is considered to be engaged in a U.S. trade or business. The partnership is required to withhold tax under section 1446 on the foreign person's distributive share of the partnership's effectively connected taxable income.

If you receive certain types of income, you must provide Form W-8EXP to:

- Establish that you are not a U.S. person,
- Claim that you are the beneficial owner of the income for which Form W-8EXP is given, and
- Claim a reduced rate of, or exemption from, withholding as a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession.

In general, payments to a foreign government (including a foreign central bank of issue wholly-owned by a foreign sovereign) from investments in the United States in stocks, bonds, other domestic securities, financial instruments held in the execution of governmental financial or monetary policy, and interest on deposits in banks in the United States are exempt from tax under section 892 and exempt from withholding under sections 1441 and 1442. Payments other than those described above, including income derived in the U.S. from the conduct of a commercial activity, income received from a controlled commercial entity (including gain from the disposition of any interest in a controlled commercial entity), and income received by a controlled commercial entity, do not qualify for exemption from tax under section 892 or exemption from withholding under

sections 1441 and 1442. See Temporary Regulations section 1.892-3T. In addition, certain distributions to a foreign government from a real estate investment trust (REIT) may not be eligible for relief from withholding and may be subject to withholding at 35% of the gain realized. For the definition of "commercial activities," see Temporary Regulations section 1.892-4T.

Amounts allocable to a foreign person from a partnership's trade or business in the United States are considered derived from a commercial activity in the United States. The partnership's net effectively connected taxable income is subject to withholding under section 1446.

In general, payments to an international organization from investment in the United States in stocks, bonds and other domestic securities, interest on deposits in banks in the United States, and payments from any other source within the United States are exempt from tax under section 892 and exempt from withholding under sections 1441 and 1442. See Temporary Regulations section 1.892-6T. Payments to a foreign central bank of issue (whether or not wholly owned by a foreign sovereign) or to the Bank for International Settlements from obligations of the United States or of any agency or instrumentality thereof, or from interest on deposits with persons carrying on the banking business, are also generally exempt from tax under section 895 and exempt from withholding under sections 1441 and 1442. In addition, payments to a foreign central bank of issue from bankers' acceptances are exempt from tax under section 871(i)(2)(C) and exempt from withholding under sections 1441 and 1442. Effectively connected income or gain from a partnership conducting a trade or business in the United States may be subject to withholding under section 1446.

Payments to a foreign tax-exempt organization of certain types of U.S. source income are also generally exempt from tax and exempt from withholding. Gross investment income of a foreign private foundation, however, is subject to withholding under section 1443(b) at a rate of 4%. Effectively connected income or gain from a partnership conducting a trade or business in the United States may be subject to withholding under section 1446.

Payments to a government of a possession of the United States are generally exempt from tax and withholding under section 115(2).

To establish eligibility for exemption from 30% tax and withholding, a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession must provide a Form W-8EXP to a withholding agent or payer with all

necessary documentation. The withholding agent or payer of the income may rely on a properly completed Form W-8EXP to treat the payment, credit, or allocation associated with the Form W-8EXP as being made to a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession exempt from withholding at the 30% rate (or, where appropriate, subject to withholding at a 4% rate).

Provide Form W-8EXP to the withholding agent or payer before income is paid, credited, or allocated to you. Failure by a beneficial owner to provide a Form W-8EXP when requested may lead to withholding at the 30% rate, the backup withholding rate, or the rate applicable under section 1446.

Additional information. For additional information and instructions for the withholding agent, see the Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY.

Who must file. You must give Form W-8EXP to the withholding agent or payer if you are a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession. Submit Form W-8EXP whether or not you are claiming a reduced rate of, or exemption from, U.S. tax withholding.

Do not use Form W-8EXP if:

- You are not a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section 115(2), 501(c), 892, 895, or 1443(b). Instead, provide Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding, or Form W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States. For example, if you are a foreign tax-exempt organization claiming a benefit under an income tax treaty, provide Form W-8BEN.
- You are receiving income that is effectively connected with the conduct of a trade or business in the United States. Instead, provide Form W-8ECI.
- You are a tax-exempt organization receiving unrelated business taxable income subject to withholding under section 1443(a). Instead, provide Form W-8BEN or Form W-8ECI for this portion of your income.
- You are a foreign partnership, a foreign simple trust, or a foreign grantor trust. Instead, provide Form W-8ECI or Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding. However, a foreign grantor trust is required to provide documentation of its grantor or other owner for purposes of section 1446. See Regulations section 1.1446-1.
- You are acting as an intermediary (that is, acting not for your own account, but for the account of others as an agent, nominee, or custodian). Instead, provide Form W-8IMY.

Giving Form W-8EXP to the withholding agent. Do not send Form W-8EXP to the IRS. Instead, give it to the person who is requesting it from you. Generally, this person will be the one from whom you receive the payment, who credits your account, or a partnership that

allocates income to you. Generally, a separate Form W-8EXP must be given to each withholding agent.

Give Form W-8EXP to the person requesting it before the payment is made, credited, or allocated to you or your account. If you do not provide this form, the withholding agent may have to withhold tax at the 30% rate, the backup withholding rate, or the rate applicable under section 1446. If you receive more than one type of income from a single withholding agent, the withholding agent may require you to submit a Form W-8EXP for each different type of income.

Change in circumstances. If a change in circumstances makes any information on the Form W-8EXP you have submitted incorrect, you must notify the withholding agent within 30 days of the change in circumstances and you must file a new Form W-8EXP or other appropriate form.

Expiration of Form W-8EXP. Generally, a Form W-8EXP filed without a U.S. taxpayer identification number (TIN) will remain in effect for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year. However, in the case of an integral part of a foreign government (within the meaning of Temporary Regulations section 1.892-2T(a)(2)) or a foreign central bank of issue, a Form W-8EXP filed without a U.S. TIN will remain in effect until a change in circumstances makes any of the information on the form incorrect. A Form W-8EXP furnished with a U.S. TIN will remain in effect until a change in circumstances makes any information on the form incorrect provided that the withholding agent reports on Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, at least one payment annually to the beneficial owner.

Definitions

Beneficial owner. For payments other than those for which a reduced rate of withholding is claimed under an income tax treaty, the beneficial owner of income is generally the person who is required under U.S. tax principles to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

Foreign partnerships, foreign simple trusts, and foreign grantor trusts are not the beneficial owners of income paid to the partnership or trust. The beneficial owners of income paid to a foreign partnership are generally the partners in the partnership, provided that the partner is not itself a partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of income paid to a foreign simple trust (that is, a foreign trust that is described in section 651(a)) are generally the beneficiaries of the trust, if the beneficiary is not a foreign partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of a foreign grantor trust (that is, a foreign trust to the extent that all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679) are the persons treated as the owners of the trust. The beneficial owners of income paid to a foreign

complex trust (that is, a foreign trust that is not a foreign simple trust or foreign grantor trust) is the trust itself.

The beneficial owner of income paid to a foreign estate is the estate itself.

These beneficial owner rules apply primarily for purposes of withholding under sections 1441 and 1442. The rules also generally apply for purposes of section 1446, with a few exceptions. See Regulations section 1.1446-1 for instances where the documentation requirements of sections 1441 and 1442 differ from section 1446.

Foreign person. A foreign person includes a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, foreign estate, foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession, and any other person that is not a U.S. person. It also includes a foreign branch or office of a U.S. financial institution or U.S. clearing organization if the foreign branch is a qualified intermediary. Generally, a payment to a U.S. branch of a foreign person is a payment to a foreign person.

Foreign government. A foreign government includes only the integral parts or controlled entities of a foreign sovereign as defined in Temporary Regulations section 1.892-2T.

An integral part of a foreign sovereign, in general, is any person, body of persons, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a foreign country. The net earnings of the governing authority must be credited to its own account or to other accounts of the foreign sovereign, with no portion benefiting any private person.

A controlled entity of a foreign sovereign is an entity that is separate in form from the foreign sovereign or otherwise constitutes a separate juridical entity only if:

- It is wholly owned and controlled by the foreign sovereign directly or indirectly through one or more controlled entities.
- It is organized under the laws of the foreign sovereign by which it is owned.
- Its net earnings are credited to its own account or to other accounts of the foreign sovereign, with no portion of its income benefiting any private person.
- Its assets vest in the foreign sovereign upon dissolution.

A controlled entity also includes a pension trust defined in Temporary Regulations section 1.892-2T(c) and may include a foreign central bank of issue to the extent that it is wholly owned by a foreign sovereign.

A foreign government must provide Form W-8EXP to establish eligibility for exemption from withholding for payments exempt from tax under section 892.

International organization. An international organization is any public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288-288(f)). In general, to qualify as an international organization, the United States must participate in the organization pursuant to a treaty or under the authority of an Act of Congress authorizing such participation.

Amounts exempt from tax under section 892. Only a foreign government or an international organization as defined above qualifies for exemption from taxation under section 892. Section 892 generally excludes from gross income and exempts from U.S. taxation income a foreign government receives from investments in the United States in stocks, bonds, or other domestic securities; financial instruments held in the execution of governmental financial or monetary policy; and interest on deposits in banks in the United States of monies belonging to the foreign government. Income of a foreign government from any of the following sources is not exempt from U.S. taxation.

- The conduct of any commercial activity.
- A controlled commercial entity.
- The disposition of any interest in a controlled commercial entity.

For the definition of “commercial activity,” see Temporary Regulations section 1.892-4T.

Section 892 also generally excludes from gross income and exempts from U.S. taxation income of an international organization received from investments in the United States in stocks, bonds, or other domestic securities and interest on deposits in banks in the United States of monies belonging to the international organization or from any other source within the United States.

Controlled commercial entity. A controlled commercial entity is an entity engaged in commercial activities (whether within or outside the United States) if the foreign government holds:

- Any interest in the entity that is 50% or more of the total of all interests in the entity, or
- A sufficient interest or any other interest in the entity which provides the foreign government with effective practical control of the entity.

An entity includes a corporation, a partnership, a trust (including a pension trust) and an estate. A partnership’s commercial activities are attributable to its general and limited partners for purposes of section 892. The partnership’s activities will result in the partnership having to withhold tax under section 1446 on the effectively connected taxable income allocable to a foreign government partner.

Note. A foreign central bank of issue will be treated as a controlled commercial entity only if it engages in commercial activities within the United States.

Foreign central bank of issue. A foreign central bank of issue is a bank that is by law or government sanction the principal authority, other than the government itself, to issue instruments intended to circulate as currency. Such a bank is generally the custodian of the banking reserves of the country under whose law it is organized. For purposes of section 895, the Bank of International Settlements is treated as though it were a foreign central bank of issue.

A foreign central bank of issue must provide Form W-8EXP to establish eligibility for exemption from withholding for payments exempt from tax under either section 892 or section 895.

Amounts exempt from tax under section 895. Section 895 generally excludes from gross income and exempts from U.S. taxation income a foreign central bank of issue receives from obligations of the United States (or of any agency or instrumentality thereof) or from interest on

deposits with persons carrying on the banking business unless such obligations or deposits are held for, or used in connection with, the conduct of commercial banking functions or other commercial activities of the foreign central bank of issue.

Amounts subject to withholding. Generally, an amount subject to withholding under section 1441 or 1442 is an amount from sources within the United States that is fixed or determinable annual or periodical (FDAP) income. FDAP income is all income included in gross income, including interest (as well as original issue discount (OID)), dividends, rents, royalties, and compensation. FDAP income does not include most gains from the sale of property (including market discount and option premiums).

Income is subject to withholding under section 1446 if the income is effectively connected with a partnership's trade or business in the United States and is allocable to a foreign person.

Withholding agent. Any person, U.S. or foreign, that has control, receipt, or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding is a withholding agent. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies. Generally, the person who pays (or causes to be paid) an amount subject to withholding to the foreign person (or to its agent) must withhold.

Specific Instructions

Part I

Before completing Part I, complete the Worksheet for Foreign Governments, International Organizations, and Foreign Central Banks of Issue on page 6 to determine whether amounts received are or will be exempt from U.S. tax under section 892 or 895 and exempt from withholding under sections 1441 and 1442. Use the results of this worksheet to check the appropriate box in Part II. Do not give the worksheet to the withholding agent. Instead, keep it for your records.

Line 1. Enter the full name of the organization.

Line 2. Enter the country under the laws of which the foreign government or other foreign organization was created, incorporated, organized, or governed.

Line 3. Check the one box that applies. A foreign central bank of issue (wholly owned by a foreign sovereign) should check the "Foreign government" box.

Line 4. The permanent address of a foreign government, international organization, or foreign central bank of issue is where it maintains its principal office. For all other organizations, the permanent address is the address in the country where the organization claims to be a resident for tax purposes. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes.

Line 5. Enter the mailing address only if it is different from the address shown on line 4.

Line 6. A U.S. taxpayer identification number (TIN) means an employer identification number (EIN). A U.S. TIN is generally required if you are claiming an exemption or reduced rate of withholding based solely on your claim of tax-exempt status under section 501(c) or private foundation status. Use Form SS-4, Application for Employer Identification Number, to obtain an EIN.

Line 7. If the country of residence for tax purposes has issued the organization a tax identifying number, enter it here.

Line 8. This line may be used by the filer of Form W-8EXP or by the withholding agent to whom it is provided to include any referencing information that is useful to the withholding agent in carrying out its obligations. A filer may use line 8 to include the name and number of the account for which the filer is providing the form.

Part II

Line 9. Check box 9a and box 9b or box 9c, whichever applies. Enter the name of the foreign sovereign's country on line 9b (if the entity is an integral part of a foreign government) or on line 9c (if the entity is a controlled entity). A central bank of issue (wholly owned by a foreign sovereign) should check box 9c.

Line 10. Check this box if you are an international organization. By checking this box, you are certifying to all the statements made in line 10.

Line 11. Check this box if you are a foreign central bank of issue not wholly owned by a foreign sovereign. By checking this box, you are certifying to all the statements made in line 11.

Line 12. Check the appropriate box if you are a foreign tax-exempt organization.



If you are a foreign tax-exempt organization, you must attach a statement setting forth any income that is includible under section 512 in computing your unrelated business taxable income.

Box 12a. Check this box if you have been issued a determination letter by the IRS. Enter the date of the IRS determination letter.

Box 12b. Check this box if you do not have an IRS determination letter, but are providing an opinion of U.S. counsel concluding that you are an organization described in section 501(c).

Box 12c. If you are a section 501(c)(3) organization, check this box if you are not a private foundation. You must attach to the withholding certificate an affidavit setting forth sufficient facts concerning your operations and support to enable the IRS to determine that you would be likely to qualify as an organization described in section 509(a)(1), (2), (3), or (4). See Rev. Proc. 92-94, 1992-2 C.B. 507, section 4, for information on affidavit preparation of foreign equivalents of domestic public charities.

Box 12d. Check this box if you are a section 501(c)(3) organization and you are a private foundation described in section 509.

Line 13. Check this box if you are a government of a U.S. possession. By checking this box you are certifying to the statements made in line 13.

Part III

Form W-8EXP must be signed and dated by an authorized official of the foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession, as appropriate.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to provide the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal

Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 7 hr., 10 min.; **Learning about the law or the form**, 5 hr., 28 min.; **Preparing and sending the form to IRS**, 5 hr., 49 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can email us at [*taxforms@irs.gov](mailto:taxforms@irs.gov). Please put "Forms Comment" on the subject line. Or you can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form W-8EXP to this office. Instead, give it to your withholding agent.

WORKSHEET FOR FOREIGN GOVERNMENTS, INTERNATIONAL ORGANIZATIONS, AND FOREIGN CENTRAL BANKS OF ISSUE

(Do not give to the withholding agent. Keep for your records.)

Complete this worksheet to determine whether amounts received are or will be exempt from United States tax under section 892 or section 895 and exempt from withholding under sections 1441 and 1442.

- Foreign governments and foreign central banks of issue, start with question 1.
- International organizations, go directly to question 6.

FOREIGN GOVERNMENT	Yes	No
1 a Is the foreign government an integral part of a foreign sovereign (see Definitions)? (If "Yes," go to question 4. If "No," answer question 1b.)	<input type="checkbox"/>	<input type="checkbox"/>
b Is the foreign government a controlled entity of a foreign sovereign (see Definitions)? (If "Yes," answer question 2a. If "No," go to question 7a.)	<input type="checkbox"/>	<input type="checkbox"/>
2 a Is the controlled entity a foreign central bank of issue (see Definitions)? (If "Yes," answer question 2b. If "No," go to question 3.)	<input type="checkbox"/>	<input type="checkbox"/>
b Is the foreign central bank of issue engaged in commercial activities within the United States? (If "Yes," answer question 7a. If "No," go to question 4.)	<input type="checkbox"/>	<input type="checkbox"/>
3 Is the controlled entity engaged in commercial activities anywhere in the world? (If "Yes," income is not exempt from tax under section 892 and may be subject to withholding. Do not complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI. If "No," answer question 4.)	<input type="checkbox"/>	<input type="checkbox"/>
4 Does the foreign government or foreign central bank of issue (wholly owned by the foreign sovereign) receive income directly or indirectly from any controlled commercial entities or income derived from the disposition of any interest in a controlled commercial entity (see Definitions)? (If "Yes," income is not exempt from tax under section 892 and may be subject to withholding. Do not complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI. If "No," answer question 5.)	<input type="checkbox"/>	<input type="checkbox"/>
5 Is any of the income received by the foreign government or foreign central bank of issue (wholly owned by the foreign sovereign) from sources other than investments in the United States in stocks, bonds, other domestic securities (as defined in Temporary Regulations section 1.892-3T(a)(3)), financial instruments held in the execution of governmental financial or monetary policy (as defined in Temporary Regulations section 1.892-3T(a)(4) and (a)(5)), or interest on deposits in banks in the United States? (If "Yes," income is not exempt from tax under section 892 and may be subject to withholding. Do not complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI. If "No," check the appropriate box on line 9 of Form W-8EXP.)	<input type="checkbox"/>	<input type="checkbox"/>
INTERNATIONAL ORGANIZATION	Yes	No
6 Is the international organization an organization in which the United States participates pursuant to any treaty or under an Act of Congress authorizing such participation and to which the President of the United States has issued an Executive Order entitling the organization to enjoy the privileges, exemptions, and immunities provided under the International Organization Immunities Act (22 U.S.C. 288, 288e, 288f)? (If "Yes," check the box on line 10 of Form W-8EXP. If "No," income may be subject to withholding. Do not complete this form for such income. Instead, complete Form W-8BEN or W-8ECI.)	<input type="checkbox"/>	<input type="checkbox"/>
FOREIGN CENTRAL BANK OF ISSUE	Yes	No
7 a Is the entity, whether wholly or partially owned by the foreign sovereign, a foreign central bank of issue? (If "Yes," answer question 7b. If "No," income is not exempt from tax under section 895 and may be subject to withholding. Do not complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI.)	<input type="checkbox"/>	<input type="checkbox"/>
b Is the income received by the foreign central bank of issue from sources other than obligations of the United States (or any agency or instrumentality thereof) or from interest on deposits with persons carrying on the banking business? (If "Yes," income is not exempt from tax under section 895 and may be subject to withholding. Do not complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI. If "No," answer question 7c.)	<input type="checkbox"/>	<input type="checkbox"/>
c Are the obligations of the United States (or any agency or instrumentality thereof) or bank deposits owned by the foreign central bank of issue held for, or used in connection with, the conduct of commercial banking functions or other commercial activities by the foreign central bank of issue? (If "Yes," income is not exempt from tax under section 895 and may be subject to withholding. Do not complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI. If "No," check the box on line 11 of Form W-8EXP.)	<input type="checkbox"/>	<input type="checkbox"/>

Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding

Department of the Treasury
Internal Revenue Service

▶ **Section references are to the Internal Revenue Code.** ▶ **See separate instructions.**
▶ **Give this form to the withholding agent or payer. Do not send to the IRS.**

Do not use this form for:

- A beneficial owner solely claiming foreign status or treaty benefits W-8BEN
- A hybrid entity claiming treaty benefits on its own behalf W-8BEN
- A person claiming that income is effectively connected with the conduct of a trade or business in the United States W-8ECI
- A disregarded entity. Instead, the single foreign owner should use W-8BEN or W-8ECI
- A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b). W-8EXP

Instead, use Form:

Part I Identification of Entity

1 Name of individual or organization that is acting as intermediary	2 Country of incorporation or organization
3 Type of entity—check the appropriate box:	
<input type="checkbox"/> Qualified intermediary. Complete Part II.	<input type="checkbox"/> Withholding foreign trust. Complete Part V.
<input type="checkbox"/> Nonqualified intermediary. Complete Part III.	<input type="checkbox"/> Nonwithholding foreign partnership. Complete Part VI.
<input type="checkbox"/> U.S. branch. Complete Part IV.	<input type="checkbox"/> Nonwithholding foreign simple trust. Complete Part VI.
<input type="checkbox"/> Withholding foreign partnership. Complete Part V.	<input type="checkbox"/> Nonwithholding foreign grantor trust. Complete Part VI.
4 Permanent residence address (street, apt. or suite no., or rural route). Do not use P.O. box.	
City or town, state or province. Include postal code where appropriate.	Country (do not abbreviate)
5 Mailing address (if different from above)	
City or town, state or province. Include postal code where appropriate.	Country (do not abbreviate)
6 U.S. taxpayer identification number (if required, see instructions) ▶	7 Foreign tax identifying number, if any (optional)
<input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN	
8 Reference number(s) (see instructions)	

Part II Qualified Intermediary

9a (All qualified intermediaries check here) I certify that the entity identified in Part I:

- Is a qualified intermediary and is not acting for its own account with respect to the account(s) identified on line 8 or in a withholding statement associated with this form **and**
- Has provided or will provide a withholding statement, as required.

b (If applicable) I certify that the entity identified in Part I has assumed primary withholding responsibility under Chapter 3 of the Code with respect to the account(s) identified on this line 9b or in a withholding statement associated with this form ▶

c (If applicable) I certify that the entity identified in Part I has assumed primary Form 1099 reporting and backup withholding responsibility as authorized in its withholding agreement with the IRS with respect to the account(s) identified on this line 9c or in a withholding statement associated with this form ▶

Part III Nonqualified Intermediary

10a (All nonqualified intermediaries check here) I certify that the entity identified in Part I is not a qualified intermediary and is not acting for its own account.

b (If applicable) I certify that the entity identified in Part I is using this form to transmit withholding certificates and/or other documentary evidence and has provided or will provide a withholding statement, as required.

Part IV Certain United States Branches

Note: You may use this Part if the entity identified in Part I is a U.S. branch of a foreign bank or insurance company and is subject to certain regulatory requirements (see instructions).

- 11 I certify that the entity identified in Part I is a U.S. branch and that the payments are not effectively connected with the conduct of a trade or business in the United States.

Check box 12 or box 13, whichever applies:

- 12 I certify that the entity identified in Part I is using this form as evidence of its agreement with the withholding agent to be treated as a U.S. person with respect to any payments associated with this certificate.
- 13 I certify that the entity identified in Part I:
- Is using this form to transmit withholding certificates or other documentary evidence for the persons for whom the branch receives a payment **and**
 - Has provided or will provide a withholding statement, as required.

Part V Withholding Foreign Partnership or Withholding Foreign Trust

- 14 I certify that the entity identified in Part I:
- Is a withholding foreign partnership or a withholding foreign trust **and**
 - Has provided or will provide a withholding statement, as required.

Part VI Nonwithholding Foreign Partnership, Simple Trust, or Grantor Trust

- 15 I certify that the entity identified in Part I:
- Is a nonwithholding foreign partnership, a nonwithholding foreign simple trust, or a nonwithholding foreign grantor trust and that the payments to which this certificate relates are not effectively connected, or are not treated as effectively connected, with the conduct of a trade or business in the United States **and**
 - Is using this form to transmit withholding certificates and/or other documentary evidence and has provided or will provide a withholding statement, as required.

Part VII Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income for which I am providing this form or any withholding agent that can disburse or make payments of the income for which I am providing this form.

Sign Here.....
Signature of authorized official.....
Date (MM-DD-YYYY)



Instructions for Form W-8IMY

(Rev. February 2006)

Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Note. For definitions of terms used throughout these instructions, see *Definitions* on pages 2 and 3.

Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources that consists of interest (including certain original issue discount (OID)), dividends, rents, premiums, annuities, compensation for, or in expectation of, services performed, or other fixed or determinable annual or periodical (FDAP) gains, profits, or income. This tax is imposed on the gross amount paid and is generally collected by withholding under section 1441 or 1442 on that amount. A payment is considered to have been made whether it is made directly to the beneficial owner or to another person, such as an intermediary, agent, trustee, executor, or partnership, for the benefit of the beneficial owner.

Foreign persons are also subject to tax at graduated rates on income they earn that is considered effectively connected with a U.S. trade or business. If a foreign person invests in a partnership that conducts a U.S. trade or business, the foreign person is considered to be engaged in a U.S. trade or business. The partnership is required to withhold tax under section 1446 on the foreign person's distributive share of the partnership's effectively connected taxable income. The partnership may generally accept any form submitted for purposes of section 1441 or 1442, with few exceptions, to establish the foreign status of the partner. See Regulations sections 1.1446-1 through 1.1446-6 to determine whether the form submitted for purposes of section 1441 or 1442 will be accepted for purposes of section 1446.



For purposes of section 1446, Form W-8IMY may only be submitted by an upper-tier foreign partnership or a foreign grantor trust, both of which must furnish additional documentation for their owners.

Additional information. For additional information and instructions for the withholding agent, see the Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY.

Who must file. Form W-8IMY must be provided by:

- A foreign person, or a foreign branch of a U.S. person, to establish that it is a qualified intermediary that is not acting for its own account, to represent that it has provided or will provide a withholding statement, as required, and, if applicable, to represent that it has assumed primary withholding responsibility under Chapter 3 of the Code (excluding section 1446) and/or primary Form 1099 reporting and backup withholding responsibility.
- A foreign person to establish that it is a nonqualified intermediary that is not acting for its own account, and, if applicable, that it is using the form to transmit withholding

certificates and/or other documentary evidence and has provided, or will provide, a withholding statement, as required. A U.S. person cannot be a nonqualified intermediary.

- A U.S. branch of certain foreign banks or foreign insurance companies to represent that the income it receives is not effectively connected with the conduct of a trade or business within the United States and either that it is using the form **(a)** as evidence of its agreement with the withholding agent to be treated as a U.S. person with respect to any payments associated with the Form W-8IMY or **(b)** to transmit the documentation of the persons for whom it receives a payment and has provided, or will provide, a withholding statement, as required.
- A foreign partnership or a foreign simple or grantor trust to establish that it is a withholding foreign partnership or withholding foreign trust under the regulations for sections 1441 and 1442 and that it has provided, or will provide, a withholding statement, as required.
- A foreign partnership or a foreign simple or grantor trust to establish that it is a nonwithholding foreign partnership or nonwithholding foreign simple or grantor trust for purposes of section 1441 and 1442 and to represent that the income is not effectively connected with a U.S. trade or business, that the form is being used to transmit withholding certificates and/or documentary evidence, and that it has provided, or will provide, a withholding statement, as required.

Solely for purposes of providing this form, a reverse hybrid entity that is providing documentation on behalf of its interest holders to claim a reduced rate of withholding under a treaty is considered to be a nonqualified intermediary unless it has entered into a qualified intermediary agreement with the IRS.

- A foreign partnership or foreign grantor trust to establish that it is an upper-tier foreign partnership or foreign grantor trust for purposes of section 1446, and to represent that the form is being used to transmit withholding certificates and/or documentary evidence and that it has provided, or will provide, a withholding statement, as required.

This form may serve to establish foreign status for purposes of sections 1441, 1442, and 1446. However, any representations that items of income, gain, deduction, or loss are not effectively connected with a U.S. trade or business will be disregarded by a partnership receiving this form for purposes of section 1446 as the partnership will undertake its own analysis.

Do not use Form W-8IMY if:

- You are the beneficial owner of U.S. source income (other than income that is effectively connected with the conduct of a trade or business within the United States) and you need to establish that you are not a U.S. person. Instead, submit Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding.

- You are the beneficial owner of U.S. source income (other than income that is effectively connected with the conduct of a trade or business within the United States) and are claiming a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty. Instead, provide Form W-8BEN.
- You are filing for a hybrid entity claiming treaty benefits on its own behalf, or you are filing for a reverse hybrid entity and are not claiming treaty benefits on behalf of its interest holders. Instead, provide Form W-8BEN.
- You are the beneficial owner of income that is effectively connected with the conduct of a trade or business within the United States. Instead, provide Form W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States.
- You are a nonresident alien individual who claims exemption from withholding on compensation for independent or certain dependent personal services performed in the United States. Instead, provide Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, or Form W-4, Employee's Withholding Allowance Certificate.
- You are filing for a disregarded entity. (A business entity that has a single owner and is not a corporation under Regulations section 301.7701-2(b) is disregarded as an entity separate from its owner.) Instead, provide Form W-8BEN or W-8ECI.
- You are filing for a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section 115(2), 501(c), 892, 895, or 1443(b). Instead, provide Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding. However, these entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim exempt recipient status for backup withholding purposes.

Giving Form W-8IMY to the withholding agent. Do not send Form W-8IMY to the IRS. Instead, give it to the person who is requesting it. Generally, this person will be the one from whom you receive the payment, who credits your account, or a partnership that allocates income to you. Give Form W-8IMY to the person requesting it before income is paid to you, credited, or allocated to your account. If you do not provide this form, the withholding agent may have to withhold at the 30% rate, backup withholding rate with respect to non effectively connected income, or the 35% rate for net effectively connected taxable income allocable to a foreign partner in a partnership. Generally, a separate Form W-8IMY must be submitted to each withholding agent.

Change in circumstances. If a change in circumstances makes any information on the Form W-8IMY (or any documentation or a withholding statement associated with the Form W-8IMY) you have submitted incorrect, you must notify the withholding agent or payer within 30 days of the changes in circumstances and you must file a new Form W-8IMY or provide new documentation or a new withholding statement.

You must update the information associated with Form W-8IMY as often as is necessary to enable the withholding agent to withhold at the appropriate rate on each payment and to report such income.

Expiration of Form W-8IMY. Generally, a Form W-8IMY remains valid until the status of the person whose name is on the certificate is changed in a way relevant to the certificate or circumstances change that make the information on the certificate no longer correct. The indefinite validity period does not extend, however, to any withholding certificates, documentary evidence, or withholding statements associated with the certificate.

Definitions

Amounts subject to withholding. Generally, an amount subject to withholding under section 1441 or 1442 is an amount from sources within the United States that is FDAP income. FDAP income is all income included in gross income, including interest (and original issue discount), dividends, rents, royalties, and compensation. FDAP income does not include most gains from the sale of property (including market discount and option premiums). FDAP income also does not include items of U.S. source income that are excluded from gross income without regard to the U.S. or foreign status of the holder, such as interest under section 103(a).

Generally, an amount subject to withholding under section 1446 is an amount that is, or is treated as, effectively connected income of a U.S. trade or business of the partnership.

Beneficial owner. For payments other than those for which a reduced rate of withholding is claimed under an income tax treaty, the beneficial owner of income is generally the person who is required under U.S. tax principles to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

Foreign partnerships, foreign simple trusts, and foreign grantor trusts are not the beneficial owners of income paid to the partnership or trust. The beneficial owners of income paid to a foreign partnership are generally the partners in the partnership, provided that the partner is not itself a partnership, foreign simple or grantor trust, nominee, or other agent. The beneficial owners of income paid to a foreign simple trust (that is, a foreign trust that is described in section 651(a)) are generally the beneficiaries of the trust, if the beneficiary is not itself a foreign partnership, foreign simple or grantor trust, nominee, or other agent. The beneficial owners of a foreign grantor trust (that is, a foreign trust to the extent that all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679) are the persons treated as the owners of the trust. The beneficial owner of income paid to a foreign complex trust (that is, a foreign trust that is not a foreign simple trust or foreign grantor trust) is the trust itself.

The beneficial owner of income paid to a foreign estate is the estate itself.

Fiscally transparent entity. An entity is treated as fiscally transparent with respect to an item of income to the extent that the interest holders in the entity must, on a current basis, take into account separately their shares of an item of income paid to the entity, whether or not distributed, and must determine the character of the items of income as if they were realized directly from the sources from which realized by the entity.

Flow-through entity. A flow-through entity is a foreign partnership (other than a withholding foreign partnership), a foreign simple or foreign grantor trust (other than a withholding foreign trust), or, for payments for which a reduced rate of withholding is claimed under an income tax treaty, any entity to the extent the entity is considered to be fiscally transparent (see earlier) with respect to the payment by an interest holder's jurisdiction.

Foreign person. A foreign person includes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person that is not a U.S. person. It also includes a foreign branch or office of a U.S. financial institution or U.S. clearing organization if the foreign branch is a qualified intermediary. Generally, a payment to a U.S. branch of a foreign person is a payment to a foreign person.

Hybrid entity. A hybrid entity is any person (other than an individual) that is treated as fiscally transparent (see earlier) in the United States but is not treated as fiscally transparent by a country with which the United States has an income tax treaty. Hybrid status is relevant for claiming treaty benefits.

Intermediary. An intermediary is any person that acts as a custodian, broker, nominee, or otherwise as an agent for another person, regardless of whether that other person is the beneficial owner of the amount paid, a flow-through entity, or another intermediary.

Qualified intermediary. A qualified intermediary is a person that is a party to a withholding agreement with the IRS and is:

- A foreign financial institution or a foreign clearing organization (other than a U.S. branch or U.S. office of the institution or organization),
- A foreign branch or office of a U.S. financial institution or a foreign branch or office of a U.S. clearing organization,
- A foreign corporation for purposes of presenting claims of benefits under an income tax treaty on behalf of its shareholders, or
- Any other person the IRS accepts as a qualified intermediary and who enters into a withholding agreement with the IRS.

See Rev. Proc. 2000-12 for procedures to apply to be a qualified intermediary. You can find Rev. Proc. 2000-12 on page 387 of Internal Revenue Bulletin (IRB) 2000-4 at www.irs.gov/pub/irs-irbs/irb00-04.pdf. Also see Notice 2001-4 (IRB 2001-2); Rev. Proc. 2003-64, Appendix 3 (IRB 2003-32); and Rev. Proc. 2004-21 (IRB 2004-14).

Nonqualified intermediary. A nonqualified intermediary is any intermediary that is not a U.S. person and that is not a qualified intermediary.

Nonwithholding foreign partnership, simple trust, or grantor trust. A nonwithholding foreign partnership is any foreign partnership other than a withholding foreign partnership. A nonwithholding foreign simple trust is any foreign simple trust that is not a withholding foreign trust. A nonwithholding foreign grantor trust is any foreign grantor trust that is not a withholding foreign trust.

Reportable amount. Solely for purposes of the statements required to be attached to Form W-8IMY, a reportable amount is an amount subject to withholding, U.S. source deposit interest (including original issue discount), and U.S. source interest or original issue discount on the redemption of short-term obligations. It does not include payments on deposits with banks and other financial institutions that remain on deposit for 2 weeks or less or amounts received from the sale or exchange (other than a redemption) of a short-term obligation that is effected outside the United States. It also does not include amounts of original issue

discount arising from a sale and repurchase transaction completed within a period of 2 weeks or less, or amounts described in Regulations section 1.6049-5(b)(7), (10), or (11) (relating to certain obligations issued in bearer form). See the instructions for Forms 1042-S and 1099 to determine whether these amounts are also subject to information reporting.

Reverse hybrid entity. A reverse hybrid entity is any person (other than an individual) that is not fiscally transparent under U.S. tax law principles but that is fiscally transparent under the laws of a jurisdiction with which the United States has an income tax treaty.

Withholding agent. A withholding agent is any person, U.S. or foreign, that has control, receipt, or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity, including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies. Generally, the person who pays (or causes to be paid) the amount subject to withholding to the foreign person (or to its agent) must withhold.

Withholding foreign partnership or withholding foreign trust. A withholding foreign partnership or withholding foreign trust is a foreign partnership or a foreign simple or grantor trust that has entered into a withholding agreement with the IRS in which it agrees to assume primary withholding responsibility under sections 1441 and 1442 for all payments that are made to it for certain of its partners, beneficiaries, or owners and is acting in its capacity as a withholding foreign partnership or withholding foreign trust.

See Rev. Proc. 2003-64 for procedures to apply to be a withholding foreign partnership or trust. You can find Rev. Proc. 2003-64 on page 306 of Internal Revenue Bulletin (IRB) 2003-32 at www.irs.gov/pub/irs-irbs/irb03-32.pdf. Also see Rev. Proc. 2004-21 (IRB 2004-14).

Specific Instructions

Part I

Line 1. Enter your name. By doing so, you are representing to the payer or withholding agent that you are not the beneficial owner of the amounts that will be paid to you.

Line 2. If you are a corporation, enter the country of incorporation. If you are another type of entity, enter the country under whose laws you are created, organized, or governed. If you are an individual, enter "N/A" (for "not applicable").

Line 3. Check the one box that applies. If you are a foreign partnership receiving the payment on behalf of your partners, check the "Withholding foreign partnership" box or the "Nonwithholding foreign partnership" box, whichever is appropriate. If you are a foreign simple trust or foreign grantor trust receiving the payment on behalf of your beneficiaries or owners, check the "Withholding foreign trust" box, the "Nonwithholding foreign simple trust" box, or the "Nonwithholding foreign grantor trust" box, whichever is appropriate. If you are a foreign partnership (or a foreign trust) receiving a payment on behalf of persons other than your partners (or beneficiaries or owners), check the "Qualified intermediary" box or the "Nonqualified intermediary" box, whichever is appropriate. A reverse hybrid entity that is providing documentation from its interest

holders to claim a reduced rate of withholding under a treaty should check the “Nonqualified intermediary” box unless it has entered into a qualified intermediary agreement with the IRS. See *Parts II Through VI* below if you are acting in more than one capacity. A partnership or grantor trust submitting Form W-8IMY solely because it is allocated income effectively connected with a U.S. trade or business as a partner in a partnership should check the box for nonwithholding foreign partnership or nonwithholding foreign grantor trust and, if it is submitting or will submit documentation for its partners or owners, it should complete Part VI. A withholding foreign partnership or a grantor trust that is a withholding foreign trust should submit a separate Form W-8IMY if it is allocated income that is effectively connected with a U.S. trade or business as a partner in a partnership and should check the box for nonwithholding foreign partnership or nonwithholding foreign grantor trust and, if it is submitting or will submit documentation for its partners or owners, it should complete Part VI.

TIP *Form W-8IMY may be submitted and accepted to satisfy documentation requirements for purposes of withholding on certain partnership allocations to foreign partners under section 1446. Section 1446 generally requires withholding when a partnership is conducting a trade or business in the United States and allocates income effectively connected with that trade or business (ECI) to foreign persons that are partners in the partnership. Section 1446 can also apply when certain income is treated as effectively connected income of the partnership and is so allocated.*

An upper-tier partnership that is allocated ECI as a partner in a partnership may, in certain circumstances, have the lower-tier partnership perform its withholding obligation. Generally, this is accomplished by the upper-tier partnership submitting withholding certificates of its partners (for example, Form W-8BEN) along with a Form W-8IMY, which identifies itself as a partnership, and identifying the manner in which ECI of the upper-tier partnership will be allocated to the partners. For further information, see Regulations section 1.1446–5. A foreign grantor trust that is allocated ECI as a partner in a partnership should provide the withholding certificates of its grantor (for example, Form W-8BEN) along with its Form W-8IMY which identifies the trust as a foreign grantor trust. See Regulations section 1.1446-1(c)(ii)(E) for the rules requiring it to provide additional documentation to the partnership.

Line 4. Your permanent residence address is the address in the country where you claim to be a resident. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you do not have a tax residence in any country, the permanent residence address is where you maintain your principal office or, if you are an individual, where you normally reside.

Line 5. Enter your mailing address only if it is different from the address you show on line 4.

Line 6. You must provide an employer identification number (EIN) if you are a U.S. branch of a foreign bank or insurance company, an upper-tier partnership that is allocated ECI as a partner in a partnership, or a foreign grantor trust that is allocated ECI as a partner.

If you are acting as a qualified intermediary, withholding foreign partnership, or withholding foreign trust, check the QI-EIN box and enter the EIN that was issued to you in such capacity (your “QI-EIN,” “WP-EIN,” or “WT-EIN”). If you are not acting in that capacity, you must use your U.S. taxpayer identification number (TIN), if any, that is not your QI-EIN, WP-EIN, or WT-EIN.

A nonqualified intermediary, a nonwithholding foreign partnership, or a nonwithholding foreign simple or grantor trust is generally not required to provide a U.S. TIN. However, a nonwithholding foreign grantor trust with five or fewer grantors is required to provide an EIN.

Line 7. If your country of residence for tax purposes has issued you a tax identifying number, enter it here.

Line 8. This line may be used by the filer of Form W-8IMY or by the withholding agent to whom it is provided to include any referencing information that is useful to the withholding agent in carrying out its obligations. For example, a withholding agent who is required to associate a particular Form W-8BEN with this Form W-8IMY may want to use line 8 for a referencing number or code that will make the association clear.

Parts II Through VI

You should complete only one part. If you are acting in multiple capacities, you must provide separate Forms W-8IMY for each capacity. For example, if you are acting as a qualified intermediary for one account, but a nonqualified intermediary for another account, you must provide one Form W-8IMY in your capacity as a qualified intermediary, and a separate Form W-8IMY in your capacity as a nonqualified intermediary.

Part II — Qualified Intermediary

Check box 9a if you are a qualified intermediary (QI) (whether or not you assume primary withholding responsibility) for the income for which you are providing this form. By checking the box, you are certifying to all of the statements contained on line 9a.

Check box 9b only if you have assumed primary withholding responsibility under Chapter 3 of the Code (nonresident alien withholding) with respect to the accounts identified on this line or in a withholding statement associated with this form.

Check box 9c only if you have assumed primary Form 1099 reporting and backup withholding responsibility as authorized in a withholding agreement with the IRS with respect to the accounts identified on this line or in a withholding statement associated with this form.

Although a QI obtains withholding certificates or appropriate documentation from beneficial owners, payees, and, if applicable, shareholders, as specified in your withholding agreement with the IRS, a QI does not need to attach the certificates or documentation to this form. However, to the extent you have not assumed primary Form 1099 reporting or backup withholding responsibility, you must disclose the names of those U.S. persons for whom you receive reportable amounts and that are not exempt recipients (as defined in Regulations section 1.6049-4(c)(1)(ii) or under section 6041, 6042, 6045, or 6050N). You should make this disclosure by attaching to Form W-8IMY the Forms W-9 (or substitute forms) of persons that are not exempt recipients. If you do not have a Form W-9 for a non-exempt U.S. payee, you must attach to Form W-8IMY any information you do have regarding that person’s name, address, and TIN.

Withholding statement of a QI. As a QI, you must provide a withholding statement to each withholding agent from which you receive reportable amounts. The withholding statement becomes an integral part of the Form W-8IMY and, therefore, the certification statement that you sign in Part VII of the form applies to the withholding statement as well as to the form. The withholding statement must:

- Designate those accounts for which you act as a QI,
- Designate those accounts for which you assumed primary withholding responsibility under Chapter 3 of the Code and/or primary Form 1099 reporting and backup withholding responsibility, and
- Provide information regarding withholding rate pools.

A withholding rate pool is a payment of a single type of income, based on the categories of income reported on Form 1042-S or Form 1099 (for example, interest or dividends), that is subject to a single rate of withholding. The withholding rate pool may be established by any reasonable method agreed upon by you and the withholding agent. For example, you may agree to establish a separate account for a single withholding rate pool or you may agree to divide a payment made to a single account into portions allocable to each withholding rate pool. You must provide the withholding rate pool information that is required for the withholding agent to meet its withholding and reporting obligations. A withholding agent may request any information reasonably necessary to withhold and report payments correctly.

If you do not assume primary Form 1099 reporting and backup withholding responsibility, you must establish a separate withholding rate pool for each U.S. non-exempt recipient account holder disclosed to the withholding agent unless the alternative procedure is used (see below). The withholding rate pools are based on valid documentation that you obtain under your withholding agreement with the IRS or, if a payment cannot be reliably associated with valid documentation, under the applicable presumption rules.

Alternative procedure for U.S. non-exempt recipients.

If permitted by the QI withholding agreement with the IRS and if approved by the withholding agent, you may establish:

- A single withholding rate pool (not subject to backup withholding) for all U.S. non-exempt recipient account holders for whom you have provided Forms W-9 prior to the withholding agent making any payments. Alternatively, you may include such U.S. non-exempt recipients in a zero rate withholding pool that includes U.S. exempt recipients and foreign persons exempt from non-resident alien withholding provided all the conditions of the alternative procedure are met, and
- A separate withholding rate pool (subject to backup withholding) for all U.S. non-exempt recipient account holders for whom you have not provided Forms W-9 prior to the withholding agent making any payments.

If you elect the alternative procedure, you must provide the information required by your QI withholding agreement to the withholding agent not later than January 15 of the year following the year in which the payments are paid. Failure to provide this information may result in penalties under sections 6721 and 6722 and termination of your withholding agreement with the IRS.

Updating the statement. The statement by which you identify the relevant withholding rate pools must be updated as often as is necessary to allow the withholding agent to withhold at the appropriate rate on each payment and to correctly report the income to the IRS. The updated information becomes an integral part of Form W-8IMY.

Part III — Nonqualified Intermediary

If you are providing Form W-8IMY as a nonqualified intermediary (NQI), you must check box 10a. By checking this box, you are certifying to all of the statements on line 10a. Check box 10b if you are using this form to transmit withholding certificates and other documentation.

If you are acting on behalf of another NQI or on behalf of a foreign partnership or foreign trust that is not a withholding foreign partnership or a withholding foreign trust, you must attach to your Form W-8IMY the Form W-8IMY of the other NQI or the foreign partnership or the foreign trust together with the withholding certificates and other documentation attached to that Form W-8IMY.

Withholding statement of an NQI. In addition to valid documentation of its customers, an NQI must provide a withholding statement to obtain reduced rates of withholding for its customers and to avoid certain reporting responsibilities. The withholding statement must be provided prior to a payment and becomes an integral part of the Form W-8IMY and, therefore, the certification statement that you sign in Part VII of the form applies to the withholding statement as well as to the form. The withholding statement must:

- Contain the name, address, U.S. TIN (if any), and the type of documentation (documentary evidence, Form W-9, or type of Form W-8) for every person for whom documentation has been received and must state whether that person is a U.S. exempt recipient, a U.S. non-exempt recipient, or a foreign person. The statement must indicate whether a foreign person is a beneficial owner or an intermediary, flow-through entity, or U.S. branch and the type of recipient, based on the recipient codes reported on Form 1042-S.
- Allocate each payment by income type to every payee for whom documentation has been provided. The type of income is based on the income codes reported on Form 1042-S (or, if applicable, the income categories for Form 1099). If a payee receives income through another NQI, flow-through entity, or U.S. branch, your withholding certificate must also state the name, address, and U.S. TIN, if known, of the other NQI or U.S. branch from which the payee directly receives the payment or the flow-through entity in which the payee has a direct ownership interest. If another NQI, flow-through entity, or U.S. branch fails to allocate a payment, you must provide, for that payment, the name of the NQI, flow-through entity, or U.S. branch that failed to allocate the payment.
- If a payee is identified as a foreign person, you must specify the rate of withholding to which the payee is subject, the payee's country of residence and, if a reduced rate of withholding is claimed, the basis for that reduced rate (for example, treaty benefit, portfolio interest, exempt under section 501(c)(3), 892, or 895). The statement must also include the U.S. TIN (if required) and, if the beneficial owner is not an individual and is claiming treaty benefits, state whether the limitation on benefits and section 894 statements have been provided by the beneficial owner. You must inform the withholding agent as to which payments those statements relate.
- Contain any other information the withholding agent requests in order to fulfill its withholding and reporting obligations under Chapter 3 of the Code and/or Form 1099 reporting and backup withholding responsibility.

Alternative procedure for NQIs. Under this procedure, you may provide information allocating a payment of a reportable amount to each payee (including U.S. exempt recipients) after a payment is made. To use the alternative procedure you must inform the withholding agent on your withholding statement that you are using the procedure and the withholding agent must agree to the procedure.



This alternative procedure cannot be used for payments that are allocable to U.S. non-exempt recipients.

Under this procedure, you must provide a withholding agent with all the information required on the withholding statement (see *Withholding statement of an NQI* on this page) and all payee documentation, except the specific allocation information for each payee, prior to the payment of a reportable amount. In addition, you must provide the withholding agent with withholding rate pool information. The withholding statement must assign each payee to a withholding rate pool prior to the payment of a reportable amount. A withholding rate pool is a payment of a single type of income, based on the income codes reported on Form 1042-S (for example, interest or dividends), that is subject to a single rate of withholding. The withholding rate pool may be established by any reasonable method agreed upon by you and the withholding agent. For example, you may agree to establish a separate account for a single withholding rate pool, or you may agree to divide a payment made to a single account into portions allocable to each withholding rate pool. You must determine withholding rate pools based on valid documentation or, to the extent a payment cannot be reliably associated with valid documentation, the applicable presumption rules.

You must provide the withholding agent with sufficient information to allocate the income in each withholding rate pool to each payee (including U.S. exempt recipients) within the pool no later than January 31 of the year following the year of payment. If you fail to provide allocation information, if required, by January 31 for any withholding rate pool, you may not use this procedure for any payment made after that date for all withholding rate pools. You may remedy your failure to provide allocation information by providing the information to the withholding agent no later than February 14. See Regulations section 1.1441-1.

Part IV — Certain United States Branches

Line 11

Check the box to certify that you are either:

- A U.S. branch of a foreign bank subject to regulatory supervision by the Federal Reserve Board or
- A U.S. branch of a foreign insurance company required to file an annual statement on a form approved by the National Association of Insurance Commissioners with the insurance department of a state, a territory, or the District of Columbia.

By checking the box you are also certifying that the income you are receiving is not effectively connected with the conduct of your trade or business in the United States. You must provide your EIN on line 6 of Part I.

Line 12 or 13

If you are one of the types of U.S. branches specified in the instructions for line 11 above, then you may choose to be treated in one of two ways:

1. Check box 12 if you have an agreement with the withholding agent to which you are providing this form to be treated as a U.S. person. In this case, you will be treated as a U.S. person. Therefore, you will receive the payment free of Chapter 3 withholding but you will yourself be responsible for Chapter 3 withholding and backup withholding for any payments you make or credit to the account of persons for whom you are receiving the payment.

2. Check box 13 if you do not have an agreement with the withholding agent to be treated as a U.S. person.

Withholding statement of a U.S. branch not treated as a U.S. person. If you checked box 13, you must provide the withholding agent with a written withholding statement. The withholding statement becomes an integral part of the Form W-8IMY. The withholding statement must provide the same information outlined under *Withholding statement of an NQI* on page 5.

Part V — Withholding Foreign Partnership or Withholding Foreign Trust

Check box 14 if you are a withholding foreign partnership or a withholding foreign trust for the accounts for which you are providing this form and you are receiving the income from those accounts on behalf of your partners, beneficiaries, or owners. If you are not receiving the income on behalf of your partners, beneficiaries, or owners, do not complete Part V. Instead, complete Part II or Part III, whichever is appropriate. If you are a withholding foreign partnership or trust that is acting as a nonwithholding foreign partnership or trust for certain partners, beneficiaries, or owners, you must complete Part VI with respect to those partners, beneficiaries, or owners.

If you are acting as a withholding foreign partnership or withholding foreign trust, you must assume primary withholding responsibility for all payments that are made to you for your partners, beneficiaries, or owners for which you are required to act as a withholding foreign partnership or trust. Therefore, you are not required to provide information to the withholding agent regarding each partner's, beneficiary's, or owner's distributive share of the payment. If you are also receiving payments from the same withholding agent for persons other than your partners, beneficiaries, or owners, you must provide a separate Form W-8IMY for those payments.

Part VI — Nonwithholding Foreign Partnership, Simple Trust, or Grantor Trust

Check box 15 if you are a foreign partnership or a foreign simple or grantor trust that is not a withholding foreign partnership or a withholding foreign trust. Additionally, check box 15 if you are a withholding foreign partnership or trust acting as a nonwithholding foreign partnership or trust for certain partners, beneficiaries, or owners. By checking this box, you are certifying to both of the statements on line 15.

Note. If you are receiving income that is effectively connected with the conduct of a trade or business in the United States, provide Form W-8ECI (instead of Form W-8IMY).

If you are not receiving the income on behalf of your partners, beneficiaries, or owners, do not complete Part VI. Instead, complete Part II or Part III, whichever is appropriate.

If you are acting on behalf of an NQI or another foreign partnership or foreign trust that is not a withholding foreign partnership or a withholding foreign trust, you must associate with your Form W-8IMY the Form W-8IMY of the other foreign partnership or foreign trust together with the withholding certificates and other documentation attached to that other form.

Withholding statement of nonwithholding foreign partnership or nonwithholding foreign trust. You must provide the withholding agent with a written withholding

statement to obtain reduced rates of withholding and relief from certain reporting obligations. The withholding statement becomes an integral part of the Form W-8IMY. The withholding statement must provide the same information outlined under *Withholding statement of an NQI* on page 5.

Certain smaller and related partnerships and trusts. If you are a foreign partnership or foreign simple or grantor trust to which a QI is applying the rules of Section 4A.01 of the QI agreement, or to which a WP or WT is applying the rules of Section 10.01 of the WP or WT agreement (relating to certain smaller partnerships and trusts), you must provide the QI, WP, or WT with a Form W-8IMY; a Form W-8 from each of your partners, beneficiaries, or owners; and a withholding statement. The withholding statement must provide the same information outlined under *Withholding statement of an NQI* on page 5, except that it does not need any allocation information.

If you are a foreign partnership or foreign simple or grantor trust to which a QI is applying the rules of Section 4A.02 of the QI agreement, or to which a WP or WT is applying the rules of Section 10.02 of the WP or WT agreement (relating to certain related partnerships and trusts), you must provide the QI, WP, or WT with a Form W-8IMY and a withholding statement. The withholding statement must provide the same information outlined under *Withholding statement of an NQI* on page 5 except that it may include pooled basis information regarding direct partners, beneficiaries, or owners that are not intermediaries, flow-through entities, or U.S. non-exempt recipients.

See Rev. Proc. 2003-64 for rules regarding certain smaller and related partnerships or trusts. You can find Rev. Proc. 2003-64 on page 306 of Internal Revenue Bulletin (IRB) 2003-32 at www.irs.gov/pub/irs-irbs/irb03-32.pdf. Also see Rev. Proc. 2004-21 (IRB 2004-14).

Part VII — Certification

Form W-8IMY must be signed and dated by a person authorized to sign a declaration under penalties of perjury on behalf of the person whose name is on the form.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you are acting in any capacity described in these instructions, you are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 5 hr., 58 min.; **Learning about the law or the form**, 4 hr., 38 min.; **Preparing the form**, 6 hr., 8 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can email us at [*taxforms@irs.gov](mailto:taxforms@irs.gov). Please put "Forms Comment" on the subject line. Or you can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form W-8IMY to this office. Instead, give it to your withholding agent.
