

Offeree Name: _____

Property Supplement Number: _____



IREX V DIVERSIFIED PORTFOLIO DST

PROPERTY SUPPLEMENT TO CONFIDENTIAL DELAWARE STATUTORY TRUST PROGRAM MEMORANDUM

Minimum Purchase: 0.26% Interest (\$250,000 of equity)

Maximum Offering Amount: \$97,634,409 of equity

The date of this Property Supplement is April 24, 2026

Investing in DST Interests involves a high degree of risk. Before investing, you should review the entire Confidential Delaware Statutory Trust Program Memorandum and this Property Supplement.

IREX V DIVERSIFIED PORTFOLIO DST

PROPERTY SUPPLEMENT TO CONFIDENTIAL DELAWARE STATUTORY TRUST PROGRAM MEMORANDUM

Class 1 Beneficial Interests in a Delaware Statutory Trust

Minimum Purchase: 0.26% Interest (\$250,000 of equity)

Maximum Offering Amount: \$97,634,409 of Interests (100% ownership of the Trust)

Invesco Real Estate Exchange LLC, a Delaware limited liability company (“**IREX**” or the “**Sponsor**”), is an indirect subsidiary of Invesco Real Estate Income Trust Inc., a Maryland corporation (“**INREIT**”). INREIT has elected to be treated as a “real estate investment trust” (“**REIT**”) for U.S. federal income tax purposes. INREIT invests primarily in stabilized, income-oriented commercial real estate in the United States and, to a lesser extent, originates, acquires, and manages private real estate debt and invests in real estate-related securities. INREIT owns, and expects to continue to own, all or substantially all of its assets through Invesco REIT Operating Partnership LP, a Delaware limited partnership (the “**Operating Partnership**” or the “**OP**”). INREIT is the sole general partner of the Operating Partnership. In this Property Supplement (as defined herein), unless the context otherwise requires, all references to “**IREX**,” the “**Sponsor**,” “**we**,” “**us**” or “**our**” or similar expressions refer to Sponsor and our subsidiaries and/or affiliates.

INREIT is externally managed by Invesco Advisers, Inc., a Delaware corporation (the “**Adviser**”). The Adviser is an indirect, wholly owned subsidiary of Invesco Ltd. (“**Invesco**”), a global investment manager, and the registered investment adviser for Invesco Real Estate, the real estate investment center of Invesco (“**IRE**”). The Adviser utilizes the personnel and global resources of IRE to provide investment management services to the Sponsor, INREIT, and the Operating Partnership.

IREX V Diversified Portfolio DST (the “**Parent Trust**”) is a recently formed Delaware statutory trust (“**DST**”) that is offering to sell (the “**Offering**”) up to 100% of the class 1 beneficial interests in the Parent Trust (the “**Parent Trust Class 1 Beneficial Interests**” or the “**Interests**”). The Parent Trust indirectly owns an industrial property and a mixed-use office and retail property through its ownership of 100% of the beneficial interests in the following DSTs (collectively, the “**Operating Trusts**” and each an “**Operating Trust**”):

- Elizabeth on Seventh Owner DST (the “**Elizabeth on Seventh Trust**”); and
- Gateway One Owner DST (the “**Gateway One Trust**”).

The Operating Trusts, together with the Parent Trust, are collectively referred to herein as the “**Trusts**,” and each, as a “**Trust**.”

We are offering the Interests to “**accredited investors**,” as that term is defined in Rule 501(a) of Regulation D under the Securities Act of 1933, as amended (the “**Securities Act**”) in a private placement exempt from registration under the Securities Act pursuant to the Sponsor’s Confidential Delaware Statutory Trust Program Memorandum dated April 24, 2026 (the “**Memorandum**”) and this Property Supplement to the Memorandum (this “**Property Supplement**”) dated April 24, 2026, which includes the Digital Investor Kit (as defined herein). Purchasers of Interests pursuant to this Offering (the “**Purchasers**”) will become beneficial owners of the Parent Trust (the “**Beneficial Owners**”). Interests will only be sold pursuant to the subscription documents (the “**Subscription Documents**”).

You should read this Property Supplement and the Memorandum in their entirety before making an investment decision. This Property Supplement modifies and supplements certain information

contained in the Memorandum and should be read in its entirety, in conjunction with, and not in lieu of, the Memorandum. Any statement contained in the Memorandum, including the exhibits thereto, will be deemed to be modified and/or superseded only to the extent indicated herein. To the extent any statement contained in this Property Supplement is inconsistent with any statement in the Memorandum, such statement in this Property Supplement shall be deemed to have superseded such statement in the Memorandum. Terms with initial capitals not otherwise defined in this Property Supplement have the meanings set forth in the Memorandum.

The Sponsor

IREX is the Sponsor of this Offering and an indirect subsidiary of INREIT. INREIT has elected to be treated as a REIT for federal income tax purposes. INREIT invests primarily in stabilized, income-oriented commercial real estate in the United States and, to a lesser extent, originates, acquires, and manages private real estate debt and invests in real estate-related securities. INREIT owns, and expects to continue to own, all or substantially all of its assets through the Operating Partnership. INREIT is the sole general partner of the Operating Partnership.

INREIT is externally managed by the Adviser. The Adviser is an indirect, wholly owned subsidiary of Invesco Ltd., a global investment manager, and the registered investment adviser for IRE. The Adviser utilizes the personnel and global resources of IRE to provide investment management services to the Sponsor, INREIT, and the Operating Partnership.

Invesco manages approximately \$2.2 trillion in assets under management (“AUM”) as of December 31, 2025. IRE is one of the largest real estate investment managers in the world, with \$84.2 billion in AUM as of September 30, 2025. Established in 1983, IRE currently operates across 21 offices in 16 countries and has over 600 employees worldwide. IRE offers private and public real estate strategies across the entire risk-return spectrum, including debt and equity structures.

The Manager of the Trusts

Invesco DST Manager LLC, a Delaware limited liability company (the “**Manager**”), which is indirectly owned by the Adviser and is an affiliate of the Sponsor, will manage each of the Trusts. The Manager is also the Parent Signatory Trustee (as defined herein) of the Parent Trust and a Signatory Trustee (as defined herein) of each of the Operating Trusts. The Manager will be managed by personnel associated with IRE. The Manager has the power and authority to manage substantially all of the affairs and limited investment activities of the Trusts, and the primary responsibility for performing administrative actions in connection with the Trusts, all of such power and authority limited to the extent such powers and authority are materially consistent with the powers and authority conferred upon the trustee in Revenue Ruling 2004-86.

The Properties

The following is a brief description of each property included in this Offering (each a “**Property**” and, collectively, the “**Properties**”) owned indirectly by the Parent Trusts via the Operating Trusts. Certain information about the Properties contained in this section of the Property Supplement is available in third-party reports obtained by the Sponsor. Neither the Trusts nor the Sponsor have independently verified the information obtained from these sources, and no assurance can be provided as to the accuracy or completeness of the data, which in certain instances may contain factual variations and inconsistencies.

The Elizabeth on Seventh Property: a mixed-use office and retail building located at 1942 East Seventh Street, Charlotte, North Carolina 28204 (the “**Elizabeth on Seventh Property**”). According to

the Elizabeth on Seventh Property PCA (as defined herein), the Elizabeth on Seventh Property was built in 2022 and consists of one four story mixed-use office and retail building comprising approximately 100,537 net rentable square feet. The Elizabeth on Seventh Property is situated on approximately 1.679 acres, as referenced in the Elizabeth on Seventh Property Survey (as defined herein). According to the Elizabeth on Seventh Property PCA, the Elizabeth on Seventh Property includes retail spaces and restaurants on the ground floor, office spaces on the upper floors, and provides two main vehicular entrances to the parking deck, one along East Seventh Street and one along North Caswell Road. According to the Elizabeth on Seventh Property Survey, the Elizabeth on Seventh Property has approximately 359 total parking spaces, which include eight Americans With Disabilities Act (“ADA”) designated parking spaces, of which two, according to the Elizabeth on Seventh Property PCA, are van designated. As of March 31, 2026, the Elizabeth on Seventh Property was 95.3% leased by 19 tenants.

The Gateway One Property¹: an industrial facility located at 425 Distribution Drive, West Columbia, South Carolina 29170 (the “**Gateway One Property**”). According to the Gateway One Property PCA (as defined herein), the Gateway One Property was built in 2023 and consists of one single-story industrial building comprising approximately 252,720 net rentable square feet. The Gateway One Property is situated on approximately 14.325 acres, as referenced in the Gateway One Property Survey (as defined herein). According to the Gateway One Property PCA, the Gateway One Property contains two 12-foot wide by 13-foot high ramped drive-in doors, 27 9-foot wide by 10-foot high dock-high doors with bumpers and manual levelers, and 35 future knock-out panels set in the exterior tilt wall. According to the Gateway One Property Survey, the Gateway One Property has approximately 338 total parking spaces, which include eight ADA-designated parking spaces and 131 striped trailer parking spaces. As of March 31, 2026, the Gateway One Property was 100% occupied by four tenants.

The Acquisition Closings

The Parent Trust owns the Properties indirectly through the Operating Trusts. On April 2, 2026, the Gateway One Trust acquired the Gateway One Property by special warranty deed for a purchase price equal to \$32.6 million (inclusive of closing costs and outstanding leasing costs) from an unaffiliated third party (the “**Gateway One Closing**”).

A subsidiary of the Operating Partnership, Elizabeth on Seventh Owner, LLC, a Delaware limited liability company (the “**Elizabeth on Seventh PropCo**”), previously acquired the Elizabeth on Seventh Property from an affiliated third party for a purchase price equal to \$58.2 million. On April 2, 2026, the Operating Partnership caused the transfer of 100% of the membership interests of the Elizabeth on Seventh PropCo to the Parent Trust. Immediately following the transfer of the Elizabeth on Seventh PropCo, the Parent Trust caused the conversion of the Elizabeth on Seventh PropCo into the Elizabeth on Seventh Trust, pursuant to Delaware law. The transfer and conversion of the Elizabeth on Seventh PropCo are collectively referred to herein as the “**Elizabeth on Seventh Closing**.” The Gateway One Closing and the Elizabeth on Seventh Closing are each referred to herein as an “**Acquisition Closing**” and, together, the “**Acquisition Closings**.” Each Operating Trust owns its respective Property in fee simple, and neither of the Properties are subject to any financing.

The Sponsor obtained an appraisal for each of the Properties, prepared by Capright Property Advisors, LLC (“**Capright**”) dated as of April 20, 2026, valuing each Property as of April 20, 2026 (the

¹ As of the date of this Property Supplement, the Gateway One Property is also referenced as 180 Trade Zone Drive, West Columbia, South Carolina 29172. The Gateway One Property was replatted in late 2025, and, beginning in January 2026, and as of the date of this Property Supplement, the current address of the Gateway One Property is 425 Distribution Drive, West Columbia, South Carolina 29170. The Sponsor is in the process of updating applicable legal documentation to reflect the sole address of the Gateway One Property as 425 Distribution Drive, West Columbia, South Carolina 29170.

last day of the month of the Gateway One Closing), and reflecting a market value for each Property, subject to the Master Lease (as defined herein), as follows (the “**Appraisal**”):

Property	Appraisal Value
The Elizabeth on Seventh Property	\$58.2 million
The Gateway One Property	\$32.6 million

The appraised value of the Properties is consistent with the purchase price paid by the Elizabeth on Seventh PropCo (as predecessor to the Elizabeth on Seventh Trust) and by the Gateway One Trust for their respective Properties. In each case, the purchase price is inclusive of closing costs and outstanding leasing costs, as applicable.

To fund the Acquisition Closings, IREX Depositor LLC (the “**Depositor**”) contributed to the Parent Trust an amount of cash and other consideration sufficient to cause the acquisition of the Gateway One Property and the Elizabeth on Seventh PropCo (the “**Depositor Contribution**”). In connection with the Depositor Contribution and the Acquisition Closings, each Operating Trust issued all of its class 2 beneficial interests (the “**Operating Trust Class 2 Beneficial Interests**”) to the Parent Trust, and the Parent Trust issued all of its class 2 beneficial interests (the “**Parent Trust Class 2 Beneficial Interests**”) to the Depositor.

The Master Lease and the Property Management Agreements

Following the acquisition of the Properties, the Operating Trusts leased the Properties to INREIT Master Lessee V LLC, a Delaware limited liability company and a wholly owned subsidiary of the Operating Partnership (the “**Master Tenant**”), pursuant to a “net lease” master lease agreement (the “**Master Lease**”). The Master Lease commenced on the Commencement Date (as defined in the Master Lease) and will continue for 20 years, unless sooner terminated pursuant to the terms of the Master Lease. The Master Tenant generally has full responsibility, including but not limited to, managing, leasing, operating, and maintaining the Properties. The obligations, including the financial obligations, of the Master Tenant to the Operating Trusts (as landlord under the Master Lease) are fully guaranteed by the Operating Partnership pursuant to a guaranty (the “**Guaranty**”). The Master Tenant sub-leases the Properties to end tenants (the “**End Tenants**”) that rent space at the Properties pursuant to end tenant leases (the “**End Tenant Leases**”). Pursuant to the Master Lease, each of the Operating Trusts assigned its rights under, and the Master Tenant assumed the Operating Trusts’ obligations under, the existing property management agreement for each respective Property (each a “**Property Management Agreement**”, and collectively, the “**Property Management Agreements**”) with an unrelated third-party property manager. Pursuant to the applicable Property Management Agreement, Spectrum Properties Management Company, a North Carolina corporation (“**Spectrum**”), manages the Elizabeth on Seventh Property, and Jones Lang LaSalle Americas, Inc., a Maryland corporation (“**JLL**”), manages the Gateway One Property. JLL and Spectrum are each a “**Property Manager**” and collectively, the “**Property Managers**”.

The Trust Agreements

The Parent Trust Agreement. The Parent Trust is governed by that certain First Amended and Restated Trust Agreement dated April 2, 2026 (the “**Parent Trust Agreement**”) by and among the Depositor, the Manager (in its capacity as manager of the Parent Trust and also in its capacity as the Parent Signatory Trustee), and the Corporation Trust Company, as the Delaware trustee (in its capacity as the

Delaware trustee of both the Parent Trust and each of the Operating Trusts, the “**Delaware Trustee**”).

Each Purchaser will acquire Interests subject to the Parent Trust Agreement that will govern the terms of the Parent Trust, as well as the rights and obligations of the Beneficial Owners with respect to their investment. The Parent Trust, in turn, owns 100% of each of the Operating Trusts, and the Beneficial Owners’ ownership of the Operating Trusts (and ultimately, the underlying Properties) is only indirect through their ownership of the Parent Trust. The Trusts are governed by the Trust Agreements (as defined herein) which set forth the rights and duties of the Beneficial Owners, the Trusts, the Manager, the Signatory Trustees (as defined herein), and the Delaware Trustee.

The Manager is the manager of each of the Trusts. The Manager will have the power and authority to manage the investments and affairs of the Parent Trust and has the sole power to determine when it is appropriate to sell the Properties. The Manager may appoint in its sole discretion, from time to time, a co-trustee to serve with the Delaware Trustee for the limited purpose of executing any documentation that may require the signature of an authorized representative of each of the Trusts (a “**Signatory Trustee**”). The Manager has appointed itself as the initial Signatory Trustee of the Parent Trust (the “**Parent Signatory Trustee**”) and as a Signatory Trustee of each of the Operating Trusts.

The Manager will distribute available cash generated by the Parent Trust, after payment of all fees and expenses and funding any necessary reserves, pro rata to the Beneficial Owners on a periodic basis but no less frequently than quarterly.

If the Manager determines that (i) all the assets of a Trust (the “**Trust Estate**”) are in jeopardy of being lost for any reason, (ii) the Beneficial Owners are at risk of losing all or a substantial portion of their investment in the Interests, or (iii) it needs to take a prohibited action as detailed in the Parent Trust Agreement, then the Manager may elect to either (x) to the extent the foregoing circumstances apply to all of the assets comprising the Trust Estate, transfer title to all of the assets comprising the Trust Estate, or convert the Parent Trust, to a newly formed Delaware limited liability company (the “**Parent Springing LLC**”), or (y) to the extent the foregoing circumstances apply to less than all of the Operating Trusts, with respect to the Operating Trust(s) to which such circumstances apply, distribute the interests in such Operating Trust(s) to the Beneficial Owners in partial liquidation of the Parent Trust (the “**Parent Transfer Distribution**”) and convert such Operating Trusts to newly formed Delaware limited liability companies.

The Operating Trust Agreements. The Operating Trusts are governed by their respective Trust Agreements, by and among the Parent Trust (as the depositor to Operating Trusts), the Manager, and the Delaware Trustee (each such agreement an “**Operating Trust Agreement**” and such agreements together the “**Operating Trust Agreements**”). The Manager may appoint in its sole discretion, from time to time, a co-trustee to serve with the Delaware Trustee for the limited purpose of executing any documentation that may require the signature of an authorized representative of each respective Operating Trust.

Each Operating Trust will terminate upon the first to occur of (i) a sale of their respective property or (ii) a Transfer Distribution (as defined herein). The Manager shall sell all of the Operating Trust’s right, title and interest in the Properties (subject to the Master Lease) and any and all other trust property and assets upon its determination (in its sole discretion) that a sale is appropriate. If the Manager determines that the Master Tenant is insolvent or has defaulted in paying rent and in certain other circumstances, the Manager has the power to transfer title to the Properties to a newly formed Delaware limited liability company and terminate the respective Operating Trust. If such an event occurs, the Beneficial Owners will become members in the newly formed Delaware limited liability company, and the Manager, or an entity controlled by the Manager, will become the manager of such entity.

For a more detailed description of each Operating Trust Agreement, see the “*Additional Disclosure*”

Regarding Certain Agreements – The Trust Agreements” section of this Property Supplement and *“Summary of the Trust Agreement”* section in the Memorandum.

The FMV Option

Pursuant to the terms of the Trust Agreements, the Beneficial Owners will grant the Operating Partnership an option to acquire the Interests (the **“FMV Option”**). The FMV Option will give the Operating Partnership a right, but not the obligation, to acquire the Interests from the Beneficial Owners in exchange for “Operating Partnership units” of a class currently issued (or that may be issued in the future) by the Operating Partnership (all such Operating Partnership units, collectively, the **“OP Units”**) or for cash, at the Operating Partnership’s discretion. The purchase price of such Interests will be based on the fair market value of the Properties, subject to the Master Lease. The fair market value of the Trust Estate will be determined through an appraisal process utilizing one or more independent firm or firms selected by the Manager in its sole discretion, and adjusted for applicable liabilities, certain adjustments, and customary prorations. Any such value shall be determined without any discounts. If the Operating Partnership chooses to exercise the FMV Option in exchange for OP Units, different Beneficial Owners may receive different classes of OP Units that bear different fees, as determined by your Participating Dealer (as defined herein), RIA (as defined herein), or other applicable selling channel.

The FMV Option is exercisable during a one-year option period, beginning on the first day after all Beneficial Owners have held their Interests for at least two years (the **“FMV Option Exercise Period”**). The Operating Partnership may, in its sole discretion, extend the FMV Option Exercise Period for an additional one year. The Operating Partnership, in its sole and absolute discretion, may assign its rights in the FMV Option to a subsidiary, an affiliate, a successor entity to the Operating Partnership or the acquiror of a majority of the Operating Partnership’s assets. The Operating Partnership may exercise its FMV Option at the level of any Trust, including at the Parent Trust level or at the level of any one or more Operating Trust.

Section 1031 Exchanges

A tax-deferred exchange (a **“Section 1031 Exchange”**) under Section 1031 of the Internal Revenue Code of 1986, as amended (the **“Code”**), generally allows the seller of investment and business real property to defer federal and state capital gains taxation on the sale by exchanging certain real property for another real property of like-kind. The acquisition of the Interests is designed for, but not limited to, Purchasers seeking to participate in a Section 1031 Exchange. Further, certain Purchasers may wish to utilize the Interests as replacement property that qualify under Code Section 1033. See *“U.S. Federal Income Tax Consequences – Qualification under Code Section 1033”* in the Memorandum. The Parent Trust has not requested, and does not plan to request, a private letter ruling from the Internal Revenue Service (the **“IRS”**) that the Interests will be treated as an interest in real estate by the Purchasers for purposes of Code Section 1031. However, tax counsel to the Parent Trust has provided a tax opinion that the acquisition of an Interest by a Purchaser should be treated as the acquisition of an interest in real estate by a Purchaser for purposes of Code Section 1031. This opinion, however, is limited in scope and does not opine on all matters necessary for the prospective Purchaser’s acquisition to qualify under Code Section 1031. See *“U.S. Federal Income Tax Consequences.”*

The Parent Trust’s Acquisition Price

The Parent Trust acquired and is syndicating the Properties in the Offering consistent with the Properties’ fair market value, as determined by the Appraisal, and with the Properties’ acquisition price. With respect to the Elizabeth on Seventh Property, such value is equal to \$58.2 million and, with respect to the Gateway One Property, such value is equal to \$32.6 million, in each case inclusive of closing costs and

outstanding leasing costs, as applicable. The Offering is being priced consistent with the foregoing, which reflects the combined value for the Properties (subject to the Master Lease) of \$90.8 million, as of April 30, 2026 (the last day of the month of the Gateway One Closing).

“Best Efforts” Offering

This Offering of Class 1 Beneficial Interests in the Parent Trust is being made including through the Dealer Manager (as defined herein) on a “best efforts” basis through the broker dealers participating in the Offering (the “**Participating Dealers**”) who are members of the Financial Industry Regulatory Agency, Inc. (“**FINRA**”). The Parent Trust, in its sole discretion, may utilize other selling channels, cancel or modify this Offering, reject purchases of Interests in whole or in part, waive conditions to the purchase of Interests, and allow investments in increments smaller than the minimum purchase amount.

The Sponsor will conduct an initial closing of such subscriptions (the “**Initial Closing**”) and hold the Initial Closing at any time after one or more subscriptions of Interests have been processed. Subsequent to the Initial Closing, the remaining Interests, if any, will continue to be sold and additional closings may be conducted on a daily basis thereafter in accordance with the Offering documents until the Maximum Offering Amount (as defined herein) of Interests is sold or, if earlier, 12 months after the Initial Closing (the “**Offering Termination Date**”). The Offering Termination Date may be extended at the Sponsor’s discretion for one twelve-month extension period. See “*Plan of Distribution*.” Notwithstanding the foregoing, in no event shall the number of initial record holders of Interests exceed the threshold for registration under Section 12(g) of the Securities Exchange Act of 1934 (as amended, the “**Exchange Act**”) or any successor provision.

Additional information regarding the Operating Partnership and INREIT is contained in the annual reports on Form 10-K and quarterly reports on Form 10-Q and current reports on Form 8-K filed by INREIT with the SEC (collectively, “**INREIT Materials**”). All INREIT Materials are publicly available over the internet at the SEC’s website at <https://www.sec.gov/search-filings> (CIK 0001756761). All information included in the INREIT Materials that we file and do not furnish with the SEC is deemed automatically incorporated by reference into, and a part of, the Memorandum. Investors and their financial advisers should review the INREIT Materials before making an investment decision.

Financing and Reserves

The Properties will not be encumbered with any permanent financing.

The Trusts may establish reserves, including a “**Supplemental Trust Reserve**”, for current and future expenses of the Trusts, including but not limited to repairs and renovations which are obligations of the Trusts whether arising prior to or under the Master Lease. The Supplemental Trust Reserve, if one is established, will be controlled by the Manager; however, the Master Tenant may utilize the Supplemental Trust Reserve in its discretion to satisfy the obligations of the Trust (as landlord) arising prior to or under the Master Lease. As of the date of this Property Supplement, a Supplemental Trust Reserve is not established.

An investment in an Interest is highly speculative and involves substantial risks including, but not limited to:

- the lack of liquidity and/or a public market of the Interests;
- the lack of voting rights with respect to the management or operations of the Trusts or in connection with the sale of the Properties;

- the existence of various conflicts of interest among the Sponsor, the Trusts, the Master Tenant, the Manager, and their affiliates;
- risks associated with the impact of pandemics or similar events on the Properties and the economies in which the Properties are located;
- risks associated with owning, operating, and leasing commercial real estate generally in the markets in which the Properties are located;
- the Gateway One Property is located in a “Moderate Seismicity Region”, which increases the risk of damage to the Gateway One Property;
- the Gateway One Property and the Elizabeth on Seventh Property are located in a “**Hurricane Susceptible Region**” which increases the risk of damage associated with owning, operating, and leasing industrial, and mixed-use office and retail buildings and real estate;
- performance of the Master Tenant under the Master Lease;
- reliance on the Master Tenant and the Property Managers to manage each of the Properties;
- the lack of diversification, including with respect to asset class and geographic location;
- material tax risks, including treatment of the Interests for purposes of Code Section 1031 and the use of exchange funds to pay acquisition costs, which may result in taxable boot;
- the Interests not being registered with the Securities and Exchange Commission (the “SEC”) or any state securities commissions;
- risks relating to the costs of compliance with laws, rules and regulations applicable to the Properties;
- risks related to competition from properties similar to and near the Properties;
- the possibility of environmental risks related to the Properties; and
- that this is a “best-efforts” offering with no minimum offering contingency.

You must carefully consider the risk factors beginning on page 16 of this Property Supplement and those discussed in the Memorandum. Neither the SEC nor any state securities commission has reviewed, approved or disapproved of the Memorandum, this Property Supplement, or the Interests, nor have they passed upon the accuracy or adequacy of the information set forth in the Memorandum or this Property Supplement. Any representation to the contrary is a criminal offense.

	Cash Price to Purchasers	Sales Commissions and Expenses⁽¹⁾	Proceeds to the Trust⁽²⁾
Per 0.26% Interest (minimum purchase) ⁽³⁾	\$250,000	\$17,500	\$232,500
Maximum Offering Amount	\$97,634,409	\$6,834,409	\$90,800,000

The date of this Property Supplement is April 24, 2026

- (1) Invesco Distributors, Inc. will serve as the dealer manager for the Offering (the “**Dealer Manager**”). The Dealer Manager will receive sales commissions (the “**Sales Commissions**”) of up to 5.0% of the purchase price of the Interests sold in the Offering (“**Total Sales**”) by Participating Dealers, which it may re-allow in whole or in part to Participating Dealers; provided, however, in the event a commission rate lower than 5.0% is negotiated with a Participating Dealer, the commission rate will be the lower agreed upon rate for Interests sold by such Participating Dealer. In addition, the Dealer Manager will receive a fee of up to 1.0% of Total Sales (the “**Dealer Manager Fee**”), which may be re-allowed by the Dealer Manager in whole or in part to Participating Dealers. The TRS, or an affiliate, will receive a non-accountable organizational and offering expense reimbursement equal to 0.5% of Total Sales (the “**Organization and Offering Expenses**”) and a non-accountable closing cost reimbursement equal to 0.5% of Total Sales (the “**Other Closing Costs**”). The total aggregate amount of Sales Commissions, Dealer Manager Fee, Organization and Offering Expenses, and Other Closing Costs (collectively, the “**Sales Commissions and Expenses**”) will be up to 7.0% of the Total Sales. The Manager on behalf of the Parent Trust may, in its discretion, accept purchases of Interests net of all or a portion of the Sales Commissions otherwise payable from Purchasers purchasing through a Registered Investment Advisor (“**RIA**”) with whom the Purchaser has agreed to pay a fee for investment advisory services in lieu of commissions, and affiliates and employees of Invesco and its affiliates may purchase the Interests net of Sales Commissions and the Dealer Manager Fee, to the extent waived. See “*Plan of Distribution*” and “*Estimated Use of Proceeds*.”
- (2) The Parent Trust is offering a maximum of \$97,634,409 of Interests (the “**Maximum Offering Amount**”), which, if sold in full, will represent 100% of the outstanding Interests in the Parent Trust at the end of the Offering. See “*Estimated Use of Proceeds*” and “*Compensation and Fees*.”
- (3) The minimum cash purchase price of \$250,000 represents a 0.26% ownership interest in the Parent Trust. The Parent Trust may waive the minimum purchase requirement in its sole discretion.

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POTENTIAL PURCHASERS SHOULD CAREFULLY CONSIDER THE FOLLOWING:

Do not construe the contents of the Memorandum and/or this Property Supplement as legal, financial or tax advice. Consult your own independent counsel, accountant or business advisor as to legal, tax and related matters concerning an investment in Interests. None of the Parent Trust, the Sponsor, nor any of their affiliates makes any representation or warranty of any kind with respect to the acceptance by the IRS or any state taxing authority of your treatment of any item on your tax return or the tax consequences if you are investing in Interests as part of a Section 1031 Exchange.

Neither the Parent Trust, the Sponsor, nor any of their respective affiliates has authorized any person to make any representations or furnish any information with respect to the Interests or the Properties, other than as set forth in the Memorandum, this Property Supplement, or other documents or information the Trust or the Sponsor may furnish to you upon request. You are encouraged to ask the Parent Trust or the Sponsor questions concerning the terms and conditions of this Offering and the Properties.

This Property Supplement constitutes an offer of Interests only to the person whose name appears in the appropriate space on the cover page of this Property Supplement. Furthermore, the delivery of this Property Supplement does not constitute an offer, or solicitation of an offer, to purchase an Interest to anyone in any jurisdiction in which such an offer or solicitation is not authorized.

The Sponsor has prepared the Memorandum and this Property Supplement solely for the benefit of persons interested in acquiring Interests. You may not reproduce or distribute the Memorandum or this Property Supplement, in whole or in part, or disclose any of its contents without the prior written consent of the Parent Trust or the Sponsor. You agree, by accepting delivery of the Memorandum and this Property Supplement, that, upon the request of the Parent Trust or the Sponsor, you will immediately return the Memorandum and this Property Supplement to the Sponsor along with all other documents provided to you in connection with the Offering if you do not purchase any of the Interests or if the Offering is withdrawn or terminated.

The Memorandum and this Property Supplement contain summaries of certain agreements and other documents. While the Sponsor believes these summaries are accurate, you should refer to the actual agreements and documents for more complete information about the rights, obligations and other matters in the agreements and documents. The Sponsor will make the agreements and documents relating to this investment available to you and/or your advisors in the Digital Investor Kit (defined below).

The Offering is being conducted pursuant to Rule 506(b) of Regulation D and is not being conducted pursuant to Rule 506(c) of Regulation D. As a result, no general advertising or general solicitation is permitted in connection with the sale of the Interests. In the event that any such general advertising or general solicitation occurs, the Trust may not be able to qualify for an exemption from registration under the Securities Act.

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A WARNING ABOUT FORWARD-LOOKING STATEMENTS

This Property Supplement contains statements about operating and financial plans, performance of the Properties, regulatory compliance and litigation (if any), and projections of future results. Forward-looking statements may be identified by the use of words such as “expects,” “anticipates,” “intends,” “plans,” “will,” “may” and similar expressions or future or conditional verbs and include any statement that necessarily depends on future events. The “forward-looking” statements are based on various assumptions, for example, the growth and expansion of the economy, projected financing environment and real property market value trends, regulatory enforcement, and third-party behavior, and these assumptions may prove to be incorrect. Accordingly, while the Sponsor believes these assumptions to be reasonable under the circumstances existing at the time they were made, such forward-looking statements might not accurately predict future events or the actual performance of an investment in the Interests. Factors that could cause forward-looking statements to be incorrect include changes in the economy or the markets where we operate, developments in litigation, changes in regulatory frameworks, and other factors discussed more completely in the “*Additional Risk Factors*” section of this Property Supplement as well as those discussed in the Memorandum. We caution you not to rely unduly on any forward-looking statements and urge you to carefully consider the factors discussed in the “*Additional Risk Factors*” section of this Property Supplement as well as those discussed in this Memorandum. Except as required by law, we are not obligated to, and do not intend to, update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. In addition, you must disregard any projections and representations, written or oral, which do not conform to those contained in this Property Supplement.

MARKET DATA

The market data and forecasts used in this Property Supplement were obtained from independent industry sources as well as from research reports prepared for other purposes. Neither the Parent Trust, the Sponsor, nor their affiliates have independently verified the data obtained from these sources and they cannot assure you of the accuracy or completeness of the data. Forecasts and other forward-looking information obtained from these sources are subject to the same qualifications and the additional uncertainties regarding the other forward-looking statements in this Property Supplement.

All brand names, trademarks, service marks, and copyrighted works appearing in this Property Supplement are the property of their respective owners. This Property Supplement may contain references to registered trademarks, service marks, and copyrights owned by the third-party information providers. None of the third-party information providers are endorsing the offering of, and shall not in any way be deemed an issuer or underwriter of, the Interests, and shall not have any liability or responsibility for any statements made in this Property Supplement or for any financial statements, financial projections or other financial information contained in, or attached as an exhibit to, this Property Supplement.

NOTICE TO PURCHASERS IN ALL STATES

The Interests are being offered only to persons who are “accredited investors” as that term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act and applicable state securities laws.

The Interests will not be registered under the Securities Act or the securities laws of any state. We will offer and sell the Interests in reliance on exemptions from the registration requirements of these laws. The Interests will be subject to restrictions on transferability and resale and you will not be able to transfer or resell Interests or any beneficial interest therein unless the Interests are registered pursuant to or exempted from such registration requirements. You must be prepared to

bear the economic risk of an investment in the Interests for an indefinite period of time and be able to withstand a total loss of your investment.

The securities laws of certain jurisdictions grant purchasers of securities sold in violation of the registration or qualification provisions of such laws the right to rescind their purchase of such securities and to receive back the consideration paid. We believe that the Offering described in this Property Supplement is not required to be registered or qualified. Many of these laws granting the right of rescission also provide that suits for such violations must be brought within a specified time, usually one year from discovery of facts constituting such violation. Should any Purchaser institute an action claiming that the Offering conducted as described herein was required to be registered or qualified, the contents of this Property Supplement will be deemed to constitute notice of the facts of the alleged violation.

PROSPECTIVE PURCHASERS ARE HEREBY NOTIFIED THAT ANY DISCUSSION OF FEDERAL TAX ISSUES CONTAINED OR REFERENCED IN THIS PROPERTY SUPPLEMENT IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING OF THE TRANSACTIONS OR MATTERS ADDRESSED IN THIS PROPERTY SUPPLEMENT. PROSPECTIVE PURCHASERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

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APPENDIX A: ONGOING DISCLOSURES RELATING TO BROKER/DEALERS

EXHIBIT A: SUBSCRIPTION DOCUMENTS

EXHIBIT B: TAX OPINION

EXHIBIT C: FINANCIAL FORECAST

In an effort to promote environmental responsibility, the Sponsor has made most of the additional information relating to the Offering available in electronic copies (the “**Digital Investor Kit**”) rather than by paper copy. Paper copies are, however, available upon request. To obtain paper copies, please contact your financial professional.

The following additional documents are available in the Digital Investor Kit:

- The Appraisal
- The Parent Trust Agreement (including the form of the “**Parent Springing LLC Agreement**”)
- The Operating Trust Agreements
- The Master Lease
- The Guaranty
- Operating Partnership Agreement
- Invesco Privacy Policy

THE DOCUMENTS THAT ARE AVAILABLE IN THE DIGITAL INVESTOR KIT ARE IMPORTANT FOR PURPOSES OF A PURCHASER’S REVIEW. IF YOU ARE NOT ABLE TO ACCESS THE DIGITAL INVESTOR KIT, PLEASE CONTACT YOUR ADVISOR IMMEDIATELY.

SUMMARY OF THE OFFERING

The following summary provides selected limited information regarding the Offering and should be read in conjunction with, and is qualified in its entirety by, the more detailed information appearing elsewhere in this Property Supplement. You should read the entire Memorandum and Property Supplement, including “Risk Factors,” and “Additional Risk Factors,” respectively before making a decision to invest in an Interest. In this Property Supplement, unless the context suggests otherwise, references to “we,” “us” and “our” mean the Parent Trust and the Sponsor and, where the context permits, affiliates of the foregoing that may provide services in connection with the Offering, management of the Trusts, and acquisition, leasing, management and disposition of the Properties.

The Interests:

We are offering to accredited investors up to \$97,634,409 in the Parent Trust Class 1 Beneficial Interests, whose owners will be Beneficial Owners along with the Depositor. The Interests being sold in this Offering will represent 100% of the outstanding beneficial interests in the Parent Trust if the Maximum Offering Amount of Interests is sold.

The minimum equity investment in the Parent Trust Class 1 Beneficial Interests is \$250,000 in cash, which represents 0.26% of the Maximum Offering Amount of the Class 1 Beneficial Interests in the Parent Trust, and the minimum subsequent equity investment by the same investor in Class 1 Beneficial Interests is \$50,000 per transaction.

The price of an Interest will include a pro rata portion of the value of the Properties, plus any Sales Commissions, any Dealer Manager Fee, the Organization and Offering Expenses, and the Other Closing Costs. See “*Estimated Use of Proceeds*” and “*Compensation and Fees*.”

Investment Objectives and Risks:

The investment objectives for the Interests will be to (i) preserve the Purchasers’ capital investment, (ii) provide quarterly distributions of available cash, and (iii) allow for the potential appreciation in value of the Properties. See “*Business Plan*.” There is no guarantee that the objectives will be successfully achieved. An investment in the Interests involves substantial risks. See “*Risk Factors*” in the Memorandum and “*Additional Risk Factors*” herein.

The Properties:

Through the ownership of the Operating Trusts, the Parent Trust indirectly owns the following Properties:

The Elizabeth on Seventh Property is a mixed-use

office and retail building located at 1942 East Seventh Street, Charlotte, North Carolina 28204. According to the Elizabeth on Seventh Property PCA, the Elizabeth on Seventh Property was built in 2022 and consists of one four story mixed-use office and retail building comprising approximately 100,537 net rentable square feet. The Elizabeth on Seventh Property is situated on approximately 1.679 acres, as referenced in the Elizabeth on Seventh Property Survey. According to the Elizabeth on Seventh Property PCA, the Elizabeth on Seventh Property includes retail spaces on the ground floor, office spaces on the upper floors, and provides two main vehicular entrances to the parking deck, one along East Seventh Street and one along North Caswell Road. According to the Elizabeth on Seventh Property Survey, the Elizabeth on Seventh Property has approximately 359 total parking spaces, which include eight ADA-designated parking spaces, of which two, according to the Elizabeth on Seventh Property PCA, are van designated. As of March 31, 2026, the Elizabeth on Seventh Property was 95.3% leased and occupied by 19 tenants.

The Gateway One Property is an industrial facility located at 425 Distribution Drive, West Columbia, South Carolina 29170. According to the Gateway One Property PCA, the Gateway One Property was built in 2023 and consists of one single-story industrial building comprising approximately 252,720 net rentable square feet. The Gateway One Property is situated on approximately 14.325 acres, as referenced in the Gateway One Property Survey. According to the Gateway One Property PCA, the Gateway One Property contains two 12-foot wide by 13-foot high ramped drive-in doors, 27 9-foot wide by 10-foot high dock-high doors with bumpers and manual levelers, and 35 future knock-out panels set in the exterior tilt wall. According to the Gateway One Property Survey, the Gateway One Property has approximately 338 total parking spaces, which include eight ADA-designated parking spaces, and 131 striped trailer parking spaces. As of March 31, 2026, the Gateway One Property was 100% occupied by four tenants.

The Acquisition Closings:

The Parent Trust owns the Properties indirectly through the Operating Trusts. On April 2, 2026, the Gateway One Trust acquired the Gateway One Property by special warranty deed from an

unaffiliated third party. Also, on April 2, 2026, the Parent Trust acquired 100% of the membership interests in the Elizabeth on Seventh PropCo, immediately followed by the conversion of the Elizabeth on Seventh PropCo into the Elizabeth on Seventh Trust pursuant to Delaware law.

Each Operating Trust owns its respective Property in fee simple, and none of the Properties are subject to any financing.

The Sponsor and the Master Tenant:

The Offering is sponsored by the Sponsor. The Sponsor is wholly owned by the TRS, a taxable REIT subsidiary and a wholly owned subsidiary of the Operating Partnership.

On April 2, 2026, each Operating Trust master leased its respective Property to the Master Tenant pursuant to the Master Lease. The obligations of the Master Tenant under the Master Lease are fully guaranteed by the Operating Partnership under the Guaranty. The Master Tenant subleases the Properties to the End Tenants pursuant to the End Tenant Leases. A copy of the Master Lease is available in the Digital Investor Kit.

No Financing:

The Properties are not encumbered with any debt.

The Parent Trust:

Each Purchaser will acquire beneficial ownership interests in the Parent Trust subject to the terms of the Parent Trust Agreement, and will thereupon become a Beneficial Owner of the Parent Trust. The Parent Trust Agreement will govern the rights and obligations of the Beneficial Owners with respect to the Trust. A copy of the Parent Trust Agreement is available in the Digital Investor Kit.

The Parent Trust has two classes of Interests: (1) the Parent Trust Class 1 Beneficial Interests; and (2) the Parent Trust Class 2 Beneficial Interests (together with the Operating Trust Class 2 Beneficial Interests, the “**Class 2 Beneficial Interests**”). In connection with the Depositor Contribution and the Acquisition Closings, each Operating Trust issued all of its Operating Trust Class 2 Beneficial Interests to the Parent Trust, and the Parent Trust issued all of its Parent Trust Class 2 Beneficial Interests to the Depositor, which initially constitutes 100% of the issued and outstanding beneficial interests in the Parent Trust.

Pursuant to this Offering, the Parent Trust is offering the Parent Trust Class 1 Beneficial Interests for sale to prospective Purchasers. As the Parent Trust Class 1 Beneficial Interests are sold to Purchasers, up to 100% of the Depositor's Parent Trust Class 2 Beneficial Interests will be redeemed by the Parent Trust on a one-for-one basis until the Maximum Offering Amount has been achieved and all the Parent Trust Class 1 Beneficial Interests have been sold. The net proceeds thereafter will be used by the Parent Trust, in accordance with the Parent Trust Agreement.

With regard to the foregoing, the term "net proceeds" from the sale of each of the Class 1 Beneficial Interests shall mean an amount equal to the purchase price of each Interest, less the Sales Commissions, Dealer Manager Fee, Organization and Offering Expenses, and Other Closing Costs allocable to each such sale. See "*Estimated Use of Proceeds*" and "*Compensation and Fees*."

FMV Option:

Pursuant to the Trust Agreements, the Beneficial Owners will grant the Operating Partnership an option to acquire the Interests pursuant to the FMV Option. The FMV Option will give the Operating Partnership a right, but not the obligation, to acquire the Interests from the Beneficial Owners in exchange for the OP Units or cash, at the Operating Partnership's discretion. The purchase price of such Interests will be based on the fair market value of the Properties, subject to the Master Lease. The fair market value of the Trust Estate will be determined through an appraisal process utilizing one or more independent firm or firms selected by the Manager in its sole discretion, and adjusted for applicable liabilities, certain adjustments, and customary prorations. Any such value will be determined without any discounts but taking into account that the Properties are subject to the Master Lease. If the Operating Partnership chooses to exercise the FMV Option in exchange for OP Units, different Beneficial Owners may receive different classes of OP Units that bear different fees, as determined by your Participating Dealer, RIA, or other applicable selling channel. The Subscription Documents will identify which particular class of OP Units you may receive if the Operating Partnership chooses to exercise the FMV Option in exchange for OP Units.

The FMV Option is exercisable during the FMV

Option Exercise Period (a one-year period, beginning on the first day after all Beneficial Owners have held their Interests for at least two years), which may be extended in the sole discretion of the Operating Partnership for an additional one year. The Operating Partnership, in its sole and absolute discretion, may assign its rights in the FMV Option to a subsidiary, an affiliate, a successor entity to the Operating Partnership or the acquiror of a majority of the Operating Partnership's assets. The Operating Partnership may exercise its FMV Option at the Parent Trust level or at the level of one or more Operating Trusts. See "*Additional Disclosure Regarding Certain Agreements – The Trust Agreements*" and "*Additional Risk Factors*" herein, and "*Risk Factors*" in the Memorandum.

Management of the Trusts:

The Parent Trust is managed by the Manager (Invesco DST Manager LLC) pursuant to the terms of the Parent Trust Agreement. The Manager may appoint in its discretion, from time to time, a Parent Signatory Trustee to serve with the Delaware Trustee for the limited purpose of executing any documentation that may require the signature of an authorized representative of the Trust. The Manager has appointed itself as the initial Parent Signatory Trustee.

The Manager has the power and authority to manage substantially all of the affairs and limited investment activities of the Trusts, the primary responsibility for performing administrative actions in connection with the Trusts, and the sole power to determine when it is appropriate to sell the Properties, all of such power and authority limited to the extent such powers and authority are materially consistent with the powers and authority conferred upon the trustee in Revenue Ruling 2004-86. The Manager will be managed by personnel associated with IRE.

If the Manager determines that (i) all or any of the Trusts' assets are in jeopardy of being lost due to any reason, (ii) the Beneficial Owners are at risk of losing all or a substantial portion of their investment in their Interests, or (iii) it needs to take a prohibited action as detailed in the Trust Agreements, then the Manager may elect to either (x) to the extent the foregoing circumstances apply to all of the assets comprising the Trust Estate, transfer title to all of the assets comprising the Trust Estate, or convert to a Springing LLC (as defined herein) or (y) to the

extent the foregoing circumstances apply to less than all of the Operating Trusts, with respect to the Operating Trust(s) to which such circumstances apply, the Manager shall distribute the interests in such Operating Trust(s) to the Beneficial Owners in partial liquidation of the Parent Trust and convert such Operating Trusts to newly formed Delaware limited liability companies. See “*Additional Disclosure Regarding Certain Agreements – the Trust Agreements.*”

An Operating Trust will terminate upon the first to occur of (i) a sale of its Property or Properties, or (ii) a Transfer Distribution. The Manager shall sell all of the Operating Trust’s right, title and interest in the Property or Properties and any and all other Trust property and assets upon its determination (in its sole discretion) that a sale is appropriate. If the Manager determines that the Master Tenant is insolvent or has defaulted in paying rent, that the relevant Property is in jeopardy of being lost due to a default or imminent default on a loan, or in certain other circumstances, the Manager has the power to transfer title of the Property to a Springing LLC under a Transfer Distribution. If an Operating Trust is terminated pursuant to a Transfer Distribution, the Beneficial Owners will become members in a Springing LLC, and the Manager, or an entity controlled by, or affiliated with, the Manager, will become the manager of such Springing LLC. See “*Summary of the Trust Agreement*” section in the Memorandum. Absent unusual circumstances, it is currently anticipated that each of the Operating Trusts will hold its respective Property or Properties for at least two years.

The Manager will also: (1) provide management services to the Operating Trusts; (2) implement all decisions and policies of the Operating Trusts; and (3) oversee and interact with the Master Tenant, and monitor, as needed, the Master Tenant’s supervision of services by the Property Managers to ensure that the Property Managers are performing in a manner consistent with the terms of the applicable Property Management Agreements.

The Master Lease:

Each Operating Trust master leased the entirety of its respective Property or Properties to the Master Tenant under the Master Lease. The Master Lease commenced on the Commencement Date (as defined in the Master Lease) and will continue for

20 years, unless sooner terminated pursuant to the terms of the Master Lease. The Master Tenant will operate the Properties pursuant to the terms of the Master Lease. The Master Lease is an “absolute net” lease, allocating to the Master Tenant all expenses and obligations associated with the Properties. The Master Tenant is solely responsible for all costs associated with property management services. The Master Tenant has the right to utilize certain reserves, including a Supplemental Trust Reserve, to the extent available and as permitted under the Master Lease, to satisfy the obligations of the Trusts (as landlord) arising prior to or under the Master Lease.

Pursuant to the Master Lease, the Master Tenant pays to the respective Operating Trust a fixed rental amount on a quarterly basis. The Master Lease obligations of the Master Tenant are fully guaranteed by the Operating Partnership. See *“Summary of the Master Lease”*.

The Guaranty:

The Operating Partnership, as guarantor (the “**Guarantor**”), has entered into the Guaranty, whereby the Guarantor guarantees to the Operating Trusts, as lessors under the Master Lease:

- (i) the payment of all amounts due under the Master Lease including, without limitation, any rents payable by the Master Tenant to the Operating Trusts;
- (ii) the full and timely performance and observance of all of the terms, covenants, conditions and agreements under the Master Lease by the Master Tenant; and
- (iii) the payment of all costs and expenses incurred by the Operating Trusts in connection with the enforcement of any of the provisions of the Guaranty or the Master Lease, or the attempted collection of any amounts due thereunder.

If the Master Tenant fails to duly and punctually pay any amount or perform or observe any term, covenant or condition of Master Lease, the Guarantor will be obligated to pay, perform, or observe the same on demand.

The Guarantor must maintain assets with a net value of at least \$100 million (the “**Net Worth**”).

Standard”). If the Guarantor fails to maintain the Net Worth Standard, the Operating Trusts (as Landlord under the Master Lease) may terminate the Master Lease in their sole discretion.

Purchaser Suitability Requirements:

You should purchase Interests only if you have substantial financial means and you have no need for liquidity in your investment. Only accredited investors who meet certain minimum requirements as described in the “*Who May Invest*” section of the Memorandum may acquire Interests in this Offering. Interests are not suitable investments for qualified plans, individual retirement accounts, tax-exempt entities, or Non-U.S. Persons (as defined herein).

For the purposes of this Property Supplement, the term “**U.S. Person**” means (1) an individual citizen or resident of the United States, (2) a corporation or any entity taxable as a corporation created or organized in or under the laws of the United States, any state or political subdivision thereof or the District of Columbia, (3) an estate the income of which is subject to federal income taxation regardless of its source, and (4) a trust (i) if it is subject to the primary supervision of a U.S. court and one or more U.S. Persons have the authority to control all substantial decisions of the trust, or (ii) that has a valid election in effect under applicable Treasury regulations to be treated as a U.S. Person.

Prospective Purchasers who are partnerships for U.S. federal income tax purposes, or who invest in the Interests through a partnership for U.S. federal income tax purposes, should consult with their tax advisors regarding the tax consequences to them.

For the purposes of this Property Supplement, the term “**Non-U.S. Person**” means an individual or an entity that is not a U.S. Person.

See “*Who May Invest*” in the Memorandum.

Plan of Distribution:

The Dealer Manager and Participating Dealers will make offers and sales of Interests on a “best efforts” basis. The commissions and expense reimbursements to the Dealer Manager and the Participating Dealers are described in “*Estimated Use of Proceeds*” and “*Plan of Distribution*” herein.

Initial Closing:

There is no minimum escrow requirement in this Offering, and the Sponsor can hold the Initial Closing at any time after one or more subscriptions for Interests have been accepted by the Parent Trust. Subsequent to the Initial Closing, the Sponsor may hold additional daily closings.

Offering Termination Date:

The Interests will be offered until the Maximum Offering Amount is attained or 12 months after the Initial Closing, subject, however, to one twelve-month extension option exercisable at the Sponsor's sole discretion, whichever is earlier. If any Interests in the Parent Trust cannot be sold, the Depositor or its affiliate will own the remaining Class 2 Beneficial Interests, which at that time will have only those rights and powers that apply to Class 1 Beneficial Interests. After the Offering Termination Date, any Class 2 Beneficial Interests held by the Depositor or its affiliate will be held for investment purposes and not for resale.

Offers to Purchase Interests:

To offer to buy an Interest, you must follow the instructions set forth in the "*How to Subscribe*" section of the Memorandum and complete certain documentation contained in the Subscription Documents. Relevant portions of the Subscription Documents must be completed consistent with the instructions provided by the Sponsor and may include certain portions that must be completed in electronic and/or paper form. If you wish not to receive or complete any portion of the Subscription Documents in electronic form, you may so elect by notifying the Trust in writing.

After your review of the Offering Materials, you must submit to the Parent Trust through your financial professional the completed Subscription Documents, and payment via wire funds or equivalent from the qualified escrow account to the Parent Trust in payment of the subscription amount. Reservations are made on a "first come, first served" basis. Upon review and approval of the Subscription Documents and the Trust's receipt of 100% of your amount required to close, you will be contacted to schedule your closing date (the "**Closing Date**"). Once your acquisition of an Interest in the Trust has closed on your scheduled Closing Date, you will be provided a confirmation and a fully executed document package.

Prospective Purchasers should understand that the Parent Trust, in its sole discretion, reserves the right to accept or reject any offer to purchase the Interests in whole or in part for any reason or no reason whatsoever. If the Parent Trust does not accept a prospective Purchaser's Subscription Documents within 30 days of submission, then they shall be deemed rejected.

**Compensation to Manager, Sponsor,
and their Affiliates:**

The Manager, Sponsor, and its affiliates will receive substantial compensation, fees, and reimbursements related to the sourcing, due diligence, and completion of the acquisition of the Properties, and in connection with the Offering and sale of Interests and the management, leasing, operation, and disposition of the Properties, which may include but are not limited to rents from the Properties in excess of the amounts the Master Tenant is required to pay to the Operating Trusts under the Master Lease, the Management Fee, the Investor Servicing Fee, and the Disposition Fee (each, as defined herein):

- The Manager will receive a management fee (the “**Management Fee**”) of up to 0.15% per annum of Total Sales, net of Sales Commissions and Expenses;
- The Dealer Manager will receive a fee of up to 0.25% per annum of Total Sales, net of Sales Commissions and Expenses, in an Offering (the “**Investor Servicing Fee**”) for ongoing investor services provided to the Beneficial Owners;
- The Trusts will be responsible for paying directly or reimbursing the Manager or its affiliates for the operating costs including but not limited to trustee fees and banking fees;
- The Manager will receive a disposition fee of up to 1.0% of the gross proceeds of the sale, exchange, or other disposition of a Property to a third-party (but not in the event the FMV Option is exercised) (the “**Disposition Fee**”);
- With respect to some Properties, the Master Tenant may be entitled to receive from its subtenants, a portion of certain fees,

including property management fees, in addition to rents from such Properties; and

- Holders of OP Units (the “**OP Unitholders**”) are also subject to fees. Ongoing servicing fees will be paid with respect to certain classes of OP Units issued in exchange for Interests, as determined by the applicable financial professional’s selling agreement with the Dealer Manager. See the INREIT Materials at <https://www.sec.gov/search-filings> (CIK 0001756761).

See “*Compensation and Fees.*”

Purchasers Responsible for Own Fees and Expenses:

Purchasers will be responsible for their own costs related to the purchase of Interests, including costs for their own legal and tax advice, fees paid to their qualified intermediary, and any other fees and expenses, as applicable.

Fees and Expenses Paid by Purchaser Through an Increase in the Purchase Price of the Properties:

The purchase price of the Interests will be equal to (i) the estimated fair market value of the Properties, subject to the Master Lease, as determined by the Appraisal and (ii) a mark-up equal to an amount sufficient to pay up to 7.0% of the Maximum Offering Amount, which will be used to pay Sales Commissions, the Dealer Manager Fee, the Organization and Offering Expenses, and Other Closing Costs.

Reports:

The Parent Trust will prepare and send to each Purchaser unaudited, periodic reports and an annual report containing an unaudited trust-level year-end balance sheet and income statement.

In addition, the Parent Trust will send to each Purchaser such tax information as may be necessary for the preparation of the Purchaser’s tax returns. See “*Reports.*”

U.S. Federal Income Tax Consequences:

In connection with the Offering, we have obtained from our tax counsel, Baker & McKenzie LLP (“**Tax Counsel**”), a legal opinion (the “**Tax Opinion**”) stating that:

- each of the Trusts should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c) and

classified as a “trust” under Treasury Regulations Section 301.7701-4(a);

- the Beneficial Owners should be treated as “grantors” of the Parent Trust;
- as “grantors,” the Beneficial Owners should be treated as owning an undivided fractional interest in the Properties for U.S. federal income tax purposes;
- the Elizabeth on Seventh Property should not be subject to the limitations of Code Section 470 because less than 35% of the Property is leased to tax-exempt entities in disqualified leases;
- the Interests should not be treated as securities for purposes of Code Section 1031;
- the Interests should not be treated as certificates of trust or beneficial interests for purposes of Code Section 1031;
- the Master Lease should be treated as a true lease and not a financing for U.S. federal income tax purposes;
- the Master Lease should be treated as a true lease and not a deemed partnership for U.S. federal income tax purposes;
- the discussions of the U.S. federal income tax consequences contained in the Memorandum and this Property Supplement are correct in all material respects; and
- certain judicially created doctrines should not apply to change the foregoing conclusions.

A copy of the Tax Opinion is attached hereto as Exhibit B to this Property Supplement.

The opinion is written to support the promotion or marketing of the Offering and each Purchaser should seek advice based on the Purchaser’s particular circumstances from an independent tax advisor.

Each Beneficial Owner must report his, her or its proportionate share of taxable income or loss on his, her or its own U.S. federal income tax return. For a

more complete discussion of the tax consequences of ownership of Interests. See “*U.S. Federal Income Tax Consequences*” in the Memorandum and herein.

Each Purchaser must consult with his, her or its tax advisor concerning the identification requirements under Code Section 1031 and other requirements for successfully completing a qualifying like-kind exchange under Code Section 1031.

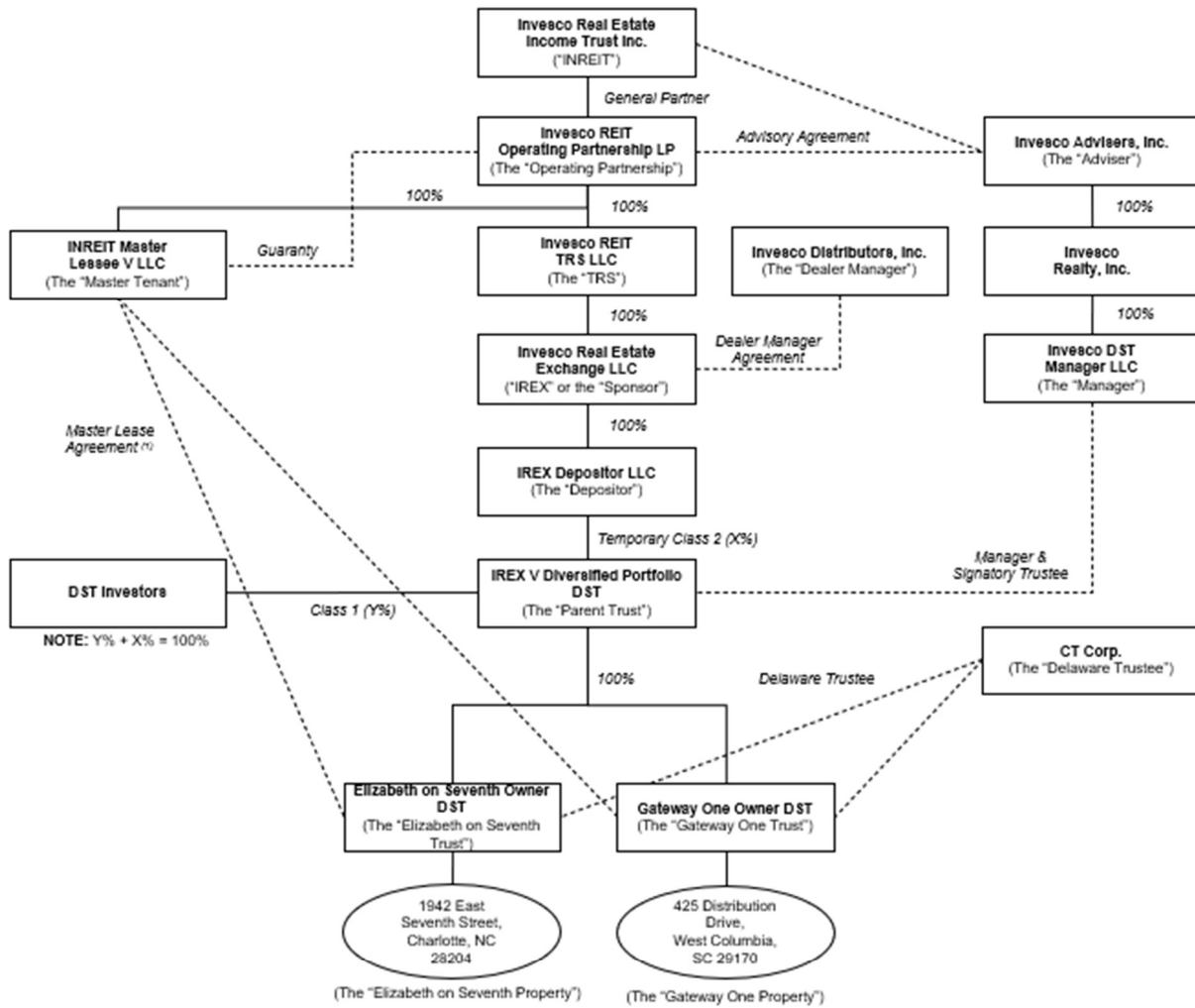
THE PURCHASERS WILL ACQUIRE THEIR INTERESTS WITHOUT ANY REPRESENTATIONS OR WARRANTIES FROM THE PARENT TRUST, THE SPONSOR, THE MANAGER OR ANY OF THEIR AFFILIATES OR REPRESENTATIVES, AGENTS, OR COUNSEL REGARDING THE TAX IMPLICATIONS OF THE TRANSACTION. EACH PURCHASER MUST CONSULT HIS, HER OR ITS OWN INDEPENDENT ATTORNEYS, ACCOUNTANTS AND OTHER TAX ADVISORS REGARDING THE TAX IMPLICATIONS OF A PURCHASE OF AN INTEREST, INCLUDING WHETHER SUCH PURCHASE WILL QUALIFY AS PART OF A PROPOSED TAX-DEFERRED EXCHANGE UNDER CODE SECTION 1031, IF ONE IS CONTEMPLATED.

There are risks associated with the U.S. federal income taxation of the purchase of an Interest, particularly where the purchase is intended to be part of a Section 1031 Exchange. Accordingly, all prospective Purchasers must consult their own independent legal, tax, accounting and financial professionals and must represent that they have done so as an investment requirement.

You should carefully read the sections of the Memorandum entitled “*Risk Factors*” and “*U.S. Federal Income Tax Consequences*,” and the sections herein entitled “*Additional Risk Factors*” and “*U.S. Federal Income Tax Consequences*,” and consult with your personal tax advisor before making an investment in Interests.

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ORGANIZATIONAL CHART



⁽¹⁾ Each Property is leased by its respective Operating Trust to the Master Tenant. The Operating Trusts are together the landlord under the Master Lease.

FREQUENTLY ASKED QUESTIONS

We have summarized certain aspects of the Offering below. The responses to these frequently asked questions do not contain all of the information a prospective Purchaser should consider before making a decision to purchase an Interest. Read the Memorandum and this Property Supplement in its entirety and consult with your legal, tax and financial advisors about making an investment in an Interest.

How are the Properties owned and operated?

Each Operating Trust owns its respective Property in fee simple and each Operating Trust is 100% beneficially owned by the Parent Trust. This Offering is for Interests in the Parent Trust. The Properties are each leased by their respective Operating Trust to the Master Tenant pursuant to the terms and conditions of the Master Lease. Pursuant to the Master Lease, the Master Tenant is responsible for operating and managing the Properties including oversight of the Property Managers and the End Tenants sub-leasing space of the Properties.

Can one DST own an interest in several subsidiary DSTs, and how do I identify the Properties for my Section 1031 Exchange?

Yes, one DST can own an interest in several subsidiary DSTs when each of the parent DST and the subsidiary DSTs are structured as a fixed investment trust pursuant to Revenue Ruling 2004-86 and Treasury Regulations Section 301.7701-4(c). Because the Offering consists of several properties for purposes of Section 1031, each must be specifically identified for a Section 1031 Exchange. See “*Federal Income Tax Consequences*” in the Memorandum. You must contact your qualified intermediary and tax advisor for the appropriate identification procedure. In addition to the foregoing, present interpretations of Code Section 1031 allow the Trustees to sell a single property and distribute the proceeds to the Purchasers, who would then, in turn, be entitled to perform a Section 1031 Exchange with regard to such proceeds.

Will there be debt on the Properties?

No. The Properties will not be subject to or encumbered by debt financing. In order to complete a Section 1031 Exchange without recognition of taxable “boot,” a Purchaser must purchase replacement property of equal or greater value than the relinquished property. Each Purchaser whose previous properties were encumbered by debt should note that such Purchaser may have to use more cash to acquire an Interest than is available from the sale of the relinquished properties because there will be no debt on the Properties.

See the Memorandum for answers to additional Frequently Asked Questions.

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ADDITIONAL RISK FACTORS

The purchase of an Interest involves a number of risks. Do not acquire an Interest if you cannot afford to lose your entire investment. Carefully consider the risks described below, as well as the other information in the Memorandum and this Property Supplement before deciding to purchase an Interest. Consult with your legal, tax and financial advisors about an investment in an Interest. The risks described below are not the only risks that may affect an investment in an Interest. Additional risks and uncertainties that we do not presently know or have not identified may also materially and adversely affect the value of an Interest, the Property or the performance of your investment.

Risks Related to Holding an Interest in a Delaware Statutory Trust

See the Memorandum for “*Risks Related to Holding an Interest in a Delaware Statutory Trust.*”

Risks Related to the Master Lease Structure

See the Memorandum for “*Risks Related to the Master Lease Structure.*”

Risks Related to the Offering

See the Memorandum for “*Risks Related to the Offering.*”

Risks Related to Adverse Changes in General Economic Conditions

See the Memorandum for “*Risks Related to Adverse Changes in General Economic Conditions.*”

Risk Relating to the Acquisition Closings

Inherent and Latent Liabilities; Related-Party Transactions. The Acquisition Closings involved a direct acquisition of real estate by the Gateway One Trust and the acquisition of a property-owning special purpose entity (i.e., the Elizabeth on Seventh PropCo) by the Parent Trust. Although the transfer price for the Elizabeth on Seventh PropCo reflects the fair market value of the Elizabeth on Seventh Property as determined by the Appraisal, it is possible, although not certain, that certain other terms of the transactions could have been more or less favorable to the Parent Trust if the Elizabeth on Seventh PropCo or the Elizabeth on Seventh Property was acquired from a third party in an open-market transaction. Further, unlike a direct acquisition of real property, the acquisition of the Elizabeth on Seventh PropCo (followed by its subsequent conversion to a DST) carries a risk that inherent and latent liabilities of the acquired entity could attach to the Elizabeth On Seventh Trust and/or the Parent Trust in connection with the Elizabeth on Seventh Closing.

Risks Related to Investment in Real Property

Risks of Investing in Industrial and Mixed-Use Office and Retail Properties; Competition. Owning and operating industrial and mixed-use office and retail properties is a highly competitive business. Ownership of the Properties could be adversely affected by competitive properties in the real estate market, which could affect the operations of the Properties and the ultimate value of the Properties. Success in owning the Properties, therefore, will depend in part upon the ability of the Master Tenant and each Property Manager to retain current tenants at favorable rental rates and to attract other quality tenants upon the termination of existing leases if the existing tenants fail to renew or as otherwise needed.

Although the Properties will be leased to the Master Tenant throughout the term of the Trusts, the Master Tenant is a newly formed entity with limited financial resources. Purchasers, as Beneficial Owners,

depend on the Master Tenant for rental payments to the Operating Trusts. The Master Tenant bears the underlying occupying tenant risk. The Master Tenant's obligations are guaranteed by the Operating Partnership. Purchasers remain subject to the credit risk of the Operating Partnership. The financial performance of the Properties will nonetheless be dependent to a significant degree on the ability of the Master Tenant and each Property Manager to retain current tenants, to attract new tenants and to increase rental rates, all of which may in turn depend on factors both within and beyond the control of the Manager, the Trusts, the Master Tenant, and each Property Manager. These factors include changing demographic trends and e-commerce patterns, changing office use trends, the availability and rental rates of competing space, and general and local economic conditions. The number of competitive properties in a particular area and any increased volatility in general and local economic conditions could have a material adverse impact on the Master Tenant's and each Property Manager's ability to lease the Properties and the rents they are able to obtain. The loss of a tenant or the inability to maintain favorable rental rates with respect to the Properties would adversely affect the value of the Properties. This could result in the Purchasers losing the entire value of their Interests. The occurrence of a casualty resulting in damage to one or more Properties could also decrease or interrupt the payment of tenant rentals, which could adversely affect the Master Tenant's performance under the Master Lease and therefore the Trusts' ability to meet its obligations as they come due, including to make distributions to Beneficial Owners. Furthermore, each Property's leases with its End Tenants may also permit them to terminate their leases if the leased premises are partially or completely damaged or destroyed by fire or other casualty. Such leases will also permit the End Tenants to partially or completely abate rental payments during the time needed to rebuild or restore such damaged premises, which may also adversely affect the Properties' financial performance. If the Master Lease is terminated for any reason, then the Beneficial Owners will bear 100% of these risks.

Competition from Industrial and Mixed-Use Office and Retail Properties in the Surrounding Geographic Area. A number of industrial and mixed-use retail and office properties of similar size and age are located in the Properties' markets. The Appraisal has identified several comparable properties, each located within the same area as the Properties. In addition, there are other properties in the surrounding region that may be more attractive to tenants. Competing properties may reduce demand for the Properties, increase vacancy rates, decrease rental rates and adversely impact the value of the Properties. There also may be additional real property available in the general vicinity of the Properties that could support the development of additional competing properties. It is possible that End Tenants will move to existing or new properties in the surrounding area, which could adversely affect the financial performance of the Properties. Competition from nearby properties could make it more difficult to attract new tenants and/or to maintain or grow rental rates, and ultimately, sell the Properties at an attractive price. The Properties could also experience competition for real property investments from individuals, corporations, and other entities engaged in real estate investment activities. Other properties and real estate investments may be more attractive than the Properties. As such, there is no assurance that the Properties will be able to retain or attract tenants at the same or higher rents given the current or future competition for tenants.

Risks Related to an Investment in the Properties

Accuracy of Anticipated Results of Operations. The anticipated results of operations for the Parent Trust as set forth in this Property Supplement, including the pro forma financial projections attached as Exhibit C (the "**Financial Forecast**"), are based upon current estimates of income and expenses relating to the operation of the Properties and the Guarantor's ability to meet its Guaranty obligation. The anticipated results should be considered speculative and are qualified in their entirety by the assumptions, information, limitations, and risks disclosed in the Memorandum and this Property Supplement. If the assumptions on which these estimates are based do not prove correct, the Beneficial Owners who own Interests in the Parent Trust will have difficulty in achieving their anticipated results. Some of the other underlying assumptions inevitably may not materialize and unanticipated events and circumstances may occur. Therefore, the actual results achieved during the life of the ownership of the Properties may vary from those anticipated,

and the variation may be material. As a result, the rate of return to the Parent Trust and the Beneficial Owners may be reliant on the Guarantor's ability to meet its Guaranty obligation. The ability of the Manager to ultimately sell the Properties at a profit will depend upon economic factors and conditions beyond its control.

Valuation. The Parent Trust obtained the Appraisal, reflecting a market value, subject to the Master Lease, for the Elizabeth on Seventh Property of \$58.2 million, and for the Gateway One Property of \$32.6 million. The aggregate estimated market value, as provided in the Appraisal, of \$90.8 million for the Properties, subject to the Master Lease, is lower than the \$97,634,409 aggregate purchase price of the Interests. See *"Estimated Use of Proceeds."* Thus, the Parent Trust will be subject to immediate dilution and therefore the Beneficial Owners may recover less than their invested capital upon any eventual sale of the Properties. There can be no assurance that the value of the Properties will appreciate or appreciate at a rate sufficient to provide a positive return on investment.

Properties are Not a Fully Diversified Investment as to Location or Asset Class. By the terms of the Trust Agreements, the Trusts generally are not permitted to acquire real property other than the Properties or any other assets or make any other investments. Because an investment in Interests represents an investment in only industrial and mixed-use office and retail properties, it is not a fully diversified investment as to asset class. Additionally, the Elizabeth on Seventh Property is in North Carolina and the Gateway One Property is located in South Carolina. As a result, an investment in Interests is not fully diversified with respect to region. Accordingly, the poor performance of industrial or mixed-use office and retail real estate as an asset class or the states of North Carolina or South Carolina as a region could adversely and disproportionately affect the performance of the Purchaser's investment in an Interest.

Agreements and Other Matters Affecting the Properties May Impact the Operations and Performance of the Properties. The Properties are subject to various matters affecting title to the Properties, which may include easements, declarations, restrictions, encroachments and other agreements of record with neighboring landowners and local municipalities, as set forth in the owner's title insurance policy and survey for each Property. Such agreements and other matters may restrict certain land and/or property uses, impose certain fees or obligations (which may result in liens against the applicable Property if not timely paid), and otherwise impact the operation and performance of the Properties. Copies of such policies and surveys and documents related to the most significant matters affecting title, if applicable, are available upon request. As a result, your investment in the Interests could be adversely affected. See *"The Properties – Agreements and Other Matters Affecting the Properties."*

Physical Condition of the Properties; No Representations to Purchasers. The Trusts will not make any warranties or representations to the Purchasers regarding the condition of the Properties. In connection with the Offering, the Sponsor has received the "Property Condition Assessment" reports for each of the Elizabeth on Seventh Property (the **"Elizabeth on Seventh Property PCA"**), and the Gateway One Property (the **"Gateway One Property PCA"**), (each individually, a **"PCA,"** and collectively, the **"PCAs"**), prepared for the Parent Trust and the applicable Operating Trust, by Marx | Okubo Associates, Inc. (**"Marx"**), and Pond, Robinson & Associates (**"PR&A"**), respectively.

The preparer of the PCAs issued its reports entitling the Parent Trust, and the respective Operating Trusts the ability to rely on the PCAs, however, subject to certain limiting conditions. A Purchaser may not rely on the PCAs and may not enforce legal claims against parties that prepared the PCAs or its underlying information. In addition, there can be no assurance that the preparers would be held liable for any losses in connection with deficiencies in the Properties that were not identified in the PCAs. Furthermore, there can be no assurance that the financial wherewithal of such preparer would be sufficient to cover any loss that may arise, should they be held liable.

There can be no assurance of the accuracy of the PCAs with regard to future capital expenditure requirements of the Properties, or that the Sponsor and/or the Master Tenant have budgeted adequately in

the Financial Forecast for all such repairs, replacements, and other expenditures that are, or may become, necessary. In certain instances, if the Master Tenant is unable to fulfill its repair obligations under the Master Lease and/or the Operating Partnership does not perform under its Guaranty, the Trusts' rental income could be used by the Trusts to reserve for or pay such expenses (instead of being used to pay distributions to Purchasers), or if costs become so significant, additional capital may be required, which could not be done except through a Transfer Distribution, which would likely have material and adverse tax consequences for Purchasers.

The Elizabeth on Seventh Property PCA Conclusions. The Elizabeth on Seventh Property PCA, dated January 5, 2026, and revised April 21, 2026, concluded that generally the Elizabeth on Seventh Property appeared to be in overall fair to good condition, consistent with its type of construction, age, and current use. The Elizabeth on Seventh Property PCA recommended a preliminary budget of \$22,550 to be allocated for certain immediate repairs, which include: (i) installing hydraulic placards at each system riser for wet and dry systems, (ii) providing a sprinkler inventory list and sprinkler wrenches for each sprinkler type in the spare sprinkler cabinet, labeling control valves in the stairwells and fire pump room, installing missing hose connection caps, lowering sprinkler heads to achieve minimum clearance between sprinkler deflectors and insulation, (iii) resolving three fire alarm trouble or supervisory alarms present on the fire alarm control panel, (iv) providing a circuit breaker lock and identification on the fire alarm control panel, and (v) sealing unsealed penetrations in rated walls with listed firestopping materials or assemblies, and a preliminary budget of \$1,700 to be allocated for certain ADA accessibility costs, which include: (x) relocating two accessible parking spaces, and (y) restriping accessible parking spaces to achieve required minimum widths. The Elizabeth on Seventh Property PCA also recommended an estimated aggregate \$144,000 (uninflated) as capital reserves for repairs and replacements necessary over the next 10 years.

The Gateway One Property PCA Conclusions. The Gateway One Property PCA, dated March 12, 2026, concluded that generally the Gateway One Property appeared to be in overall good condition, but identified certain items that appear to be construction defects and recommended some items for further review and minor work. The Gateway One Property PCA recommended a preliminary budget of \$2,000 to be allocated for certain immediate repairs, which include performing drywall repairs and fire caulking in a certain fire alarm control panel room. The Gateway One Property PCA also recommended an estimated aggregate \$494,500 (uninflated) as capital reserves for repairs and replacements necessary over the next 10 years.

See "*The Properties*" section of this Property Supplement for further discussion and analysis of the PCAs.

Environmental Problems Are Possible and Can Be Costly. Federal, state and local laws and regulations relating to the protection of the environment may require a current or previous owner or operator of real estate to investigate and clean up hazardous or toxic substances or petroleum product releases at or affecting the Properties. The owner or operator may have to pay a governmental entity or third parties for property damage and for investigation and clean-up costs incurred by such parties in connection with any such contamination. These laws typically impose clean-up responsibility and liability without regard to whether the owner or operator knew of or caused the presence of the contaminants. Even if more than one person may have been responsible for the contamination, each person covered by the environmental laws may be held responsible for all of the clean-up costs incurred. In addition, third parties may sue the owner or operator of a site for damages and costs resulting from environmental contamination emanating from that site. The Sponsor is also aware that environmental agencies and third parties have, in the case of certain properties with on-site or nearby contamination, asserted claims for remediation, property damage or personal injury based on the alleged actual or potential intrusion into buildings of chemical vapors (e.g., radon) or volatile organic compounds from soils or groundwater underlying or in the vicinity of those buildings or nearby properties. The Sponsor can provide no assurance that the Trusts will not incur any material liabilities as a result of vapor intrusion at the Properties.

The Elizabeth on Seventh Property Phase I Report Conclusions. The Elizabeth on Seventh Property has been evaluated for environmental hazards pursuant to the Phase I Environmental Site Assessment Report prepared by Targus Associates, LLC (“**Targus**”) dated November 20, 2025, based on a site visit conducted on November 5, 2025 (the “**Elizabeth on Seventh Property Phase I Report**”). The Elizabeth on Seventh Property Phase I Report, which was based on a walk-through observation of the accessible areas and interviews with facility personnel, local agency representatives, and other relevant personnel, limited observations of surrounding properties, and a records review, including regulatory databases and historical use information, was prepared in general conformance with the scope and limitations of ASTM Practice E1527-21.

The Elizabeth on Seventh Property Phase I Report noted that the Elizabeth on Seventh Property was historically occupied by automotive service stations and other small commercial operations. Petroleum use and underground storage tanks (the “**USTs**”) were present on-site for several decades beginning in the mid-20th century. In 1992, seven USTs were removed from the Elizabeth on Seventh Property. Petroleum impact was observed during removal, and approximately 825 cubic yards of impacted soil were excavated. Impacted soil remained in place in limited areas where further excavation was restricted by the presence of groundwater, structural limitations, or the property boundary. Groundwater sampling identified petroleum-related compounds in two monitoring wells installed down-gradient of former UST tank holds, and groundwater flow was measured toward the west. The North Carolina Department of Environmental Quality (“**NCDEQ**”) issued a “No Further Action” determination in May 1999, concluding that the remaining soil and groundwater impacts did not pose a risk and that groundwater was unsuitable for potable use. In 2017, additional assessment was completed that included removal of two hydraulic lifts and installation of groundwater monitoring wells to investigate groundwater conditions. Impacted soil beneath one hydraulic lift was excavated to approximately two feet below the lift, and analysis of confirmation soil samples did not identify petroleum-related compounds above applicable action levels. Laboratory analysis of groundwater samples identified low concentrations of chloroform and o-xylene, both below their respective North Carolina Administrative Code 2L Groundwater Standards. In preparation for redevelopment, the Elizabeth on Seventh Property was entered into the North Carolina Brownfields Program (“**NCBP**”), and a “Brownfields Agreement” was entered into and recorded on April 22, 2021, establishing land use restrictions including a prohibition on groundwater use and limiting future use to commercial purposes at the Elizabeth on Seventh Property (the “**Elizabeth on Seventh Property Brownfields Agreement**”). During redevelopment, eight previously unknown USTs were discovered and closed under NCDEQ oversight. Confirmation soil sampling following orphan UST removal identified petroleum-related impacts and one detection of tetrachloroethylene above their respective Preliminary Soil Remediation Goals. Affected areas were covered with clean fill or hardscape, and the Elizabeth on Seventh Property was redeveloped for commercial use. Because the Elizabeth on Seventh Property is enrolled in the NCBP, has recorded a Brownfields Agreement with enforceable land use restrictions, and considering that no unresolved releases migrating toward or from the Elizabeth on Seventh Property have been identified, Targus considers the historical releases at the Elizabeth on Seventh Property to represent a controlled recognized environmental condition (“**CREC**”). Continued compliance with the Elizabeth on Seventh Property Brownfields Agreement and annual Land Use Restriction Update (“**LURU**”) requirements contained therein remains an ongoing obligation for the owner(s) of the Elizabeth on Seventh Property.

The Elizabeth on Seventh Property Phase I Report revealed no evidence of recognized environmental conditions (“**RECs**”), business environmental risks (“**BERs**”), or significant data gaps in connection to the Elizabeth on Seventh Property. No further investigation was recommended.

The Gateway One Property Phase I Report Conclusions. The Gateway One Property has been evaluated for environmental hazards pursuant to the Phase I Environmental Site Assessment Report prepared by Targus dated March 20, 2026, based on a site visit conducted on March 4, 2026 (the “**Gateway One Property Phase I Report**”). The Gateway One Property Phase I Report, which was based on a walk-

through observation of the accessible areas and interviews with facility personnel, local agency representatives, and other relevant personnel, limited observations of surrounding properties, and a records review, including regulatory databases and historical use information, was prepared in general conformance with the scope and limitations of ASTM Practice E1527-21.

The Gateway One Property Phase I Report noted that historical and regulatory information indicates that the Gateway One Property is located within a larger parcel historically associated with pesticide disposal activities conducted during operations at the former Columbia Army Air Base during the 1940s. Available documentation indicates that pesticides used for pest control and base maintenance were reportedly disposed of within portions of the larger property during that period. Environmental investigations performed in connection with redevelopment later identified pesticide-related impacts in soil and groundwater within the larger tract that includes the Gateway One Property. The Gateway One Property was subsequently investigated and remediated under the South Carolina Voluntary Cleanup Program. Response actions reportedly included excavation and removal of impacted soils followed by confirmation sampling and regulatory review. The South Carolina Department of Environmental Services issued a Certificate of Completion for Voluntary Cleanup Contract 21-4752-NRP in October 2022. However, because contaminants remained at concentrations exceeding unrestricted use criteria, institutional controls were implemented through a recorded Declaration of Covenants and Restrictions applicable to the Gateway One Property (the “**Gateway One Property DCR**”). These controls include restrictions on groundwater use, limitations on sensitive land uses such as residential development and schools, and requirements that soil disturbance activities be conducted in accordance with an approved “Media Management Plan”. Given that residual pesticide impacts associated with historical disposal activities on the site and surrounding adjoining properties remain present but are considered protective under the established internal controls, Targus considers the former pesticide disposal activities to represent a CREC. No further action is recommended by Targus at this time.

The Gateway One Property Phase I Report revealed no evidence of RECs, BERs, or significant data gaps in connection to the Gateway One Property. No further investigation was recommended.

Limitations of a Phase I Report

The preparer of the Elizabeth on Seventh Property Phase I Report and the Gateway One Property Phase I Report (each a “**Phase I Report**”, and collectively, the “**Phase I Reports**”) issued its respective reports entitling the respective Operating Trusts the ability to rely on the applicable Phase I Reports, however subject to certain limitations and exceptions. A Purchaser may not rely on the Phase I Reports and may not enforce legal claims against parties that prepared the Phase I Reports or its underlying information. In addition, there can be no assurance that the preparers would be held liable for any losses in connection with deficiencies in the Properties that were not identified in the Phase I Reports. Furthermore, there can be no assurance that the financial wherewithal of such preparers would be sufficient to cover any loss that may arise, should they be held liable.

A “Phase I” environmental site assessment report generally will not involve any invasive testing, but instead is limited to a physical walk through or inspection of the Properties and a review of the related governmental records. Accordingly, the Sponsor cannot provide any assurance to potential Purchasers that actual environmental problems with the Properties would be exposed by the Phase I Reports. In light of the material risks and potential liability associated with the discovery of an environmental hazard at the Properties, the Purchasers of the Interests should be certain that they understand, and can accept, the risks associated with any known and unknown hazardous substances affecting the Properties. In addition, it is possible that an environmental claim may be raised in such a manner that liability could penetrate any limited liability protections otherwise available to shield the owners of an entity from liability, thereby allowing such claims to be enforceable against the Purchasers. Finally, it is possible that the existence of any environmental issues with the Properties may make it more difficult, and perhaps impossible, to obtain financing for the Properties in the event of a transfer (or conversion) to a Springing LLC.

See “*The Properties*” section of this Property Supplement for further discussion and analysis of the environmental review of the Properties.

Risks Relating to the Operation of the Properties

Insurance; Uninsured Losses. The Master Tenant has obtained general liability and business interruption insurance for the Properties. If a loss occurs that is partially or completely uninsured, the Beneficial Owners may lose all or a part of their investment. The applicable Operating Trust may be liable for any uninsured or underinsured personal injury, death or property damage claims. Liability in such cases may be unlimited. Insurance increases costs and thus lowers the potential return to the Beneficial Owners.

The Gateway One Property is located in a Moderate Seismicity Region, which Increases the Risk of Damage to the Gateway One Property. According to the Gateway One Property PCA, the Gateway One Property is located in Seismic Zone 2A, a low-moderate damage risk zone, which may require the Gateway One Property to maintain a certain level of insurance. These risks may not continue to be insurable on an economical basis, and current levels of coverage may cease to be available.

The Properties are Located in a Hurricane Susceptible Region, which Increases the Risk of Damage to the Properties. The Properties are located in a Hurricane Susceptible Zone according to the Federal Emergency Management Agency. Although the Operating Trusts will be required to maintain certain levels of insurance to be set forth in the Master Lease, in the future this risk may not be insurable on an economical basis, or at the level of coverage currently anticipated.

Regulatory Matters. The value of the Properties may be adversely affected by legislative, regulatory, administrative, and enforcement actions at the local, state and national levels in the area, among others, of environmental controls. In addition to possible increasingly restrictive zoning regulations and related land use controls, such restrictions may relate to air and water quality standards, noise pollution and indirect environmental impacts such as increased motor vehicle activity.

Reliance on Management. Under the Trust Agreements, the Manager has the right to make administrative decisions on behalf of the Trusts. Also, the Manager has the sole discretion to determine when to sell the Properties and on what terms. The Manager has other extensive powers and authority, some of which are limited by the express terms of the Trust Agreements. In the event of a Transfer Distribution, however, the Manager or its affiliates, as the manager of the Springing LLC, would be granted expanded powers and the right to receive additional compensation. Accordingly, no Purchaser should purchase Interests unless such Purchaser recognizes that the Trusts are limited in their ability to manage the Properties and such Purchaser is willing to entrust such limited management of the Properties and the power to sell the Properties to the Delaware Trustee and the Manager, and after a Transfer Distribution the Purchaser is willing to entrust all aspects of the management of the Springing LLC to the Manager as its manager. See “*Summary of the Trust Agreement – Termination of the Trust to Protect the Trust Estate; Transfer Distribution*” in the Memorandum. Furthermore, under the Trust Agreements, the Delaware Trustee has the power and authority to remove the Manager for cause (fraud or gross negligence causing material damage to, or diminution in value of, the Properties).

Re-tenanting. Although each of the End Tenants leases their respective Property pursuant to a long-term lease, for several of the leases, the term either (i) will expire within the term of the Master Lease, with no renewal or extension options, (ii) will expire within the term of the Master Lease, even if the extension option is exercised, or (iii) includes an early termination option within the term of the Master Lease, increasing reliance on re-tenanting and market conditions at expiration rather than contractual extensions. See “*Description of the End Tenants and the End Tenant Leases.*”

Conflicts. The Manager and its affiliates are subject to conflicts of interest between their activities,

roles and duties for other entities and the activities, roles and duties they have assumed on behalf of the Trusts. Conflicts exist in allocating management time, services and functions between their current and future activities and the Trusts. None of the arrangements or agreements described, including those relating to the purchase price of the Properties or compensation, is the result of arm's-length negotiations. See the *"Conflicts of Interest"* section of the Memorandum.

No Substantial Assets of the Manager or the Master Tenant. The Manager and the Master Tenant (a newly formed entity) do not have any substantial assets. Thus, there is no assurance that the Manager will have the financial resources to satisfy its obligations, including under the Trust Agreements; the performance of the Master Tenant's obligation under the Master Lease is guaranteed as provided in the Guaranty. Neither the Sponsor, the Manager, nor the Master Tenant are obligated to invest or provide additional capital on behalf of the Trusts, the Beneficial Owners, or the Properties. This Property Supplement does not contain financial statements for the Sponsor, the Manager, the Operating Partnership, the Manager, or the Master Tenant. See the INREIT Materials at <https://www.sec.gov/search-filings> (CIK 0001756761).

Compensation and Fees. The Sponsor and certain of its affiliates will receive certain compensation from the Trusts for services rendered regardless of whether any sums are distributed to the Beneficial Owners. See *"Compensation and Fees."*

Risks Related to the FMV Option

See the Memorandum for *"Risks Related to the FMV Option."*

Risks Related to the Operating Partnership and Ownership of the OP Units

See the Memorandum for *"Risks Related to the Operating Partnership and Ownership of the OP Units."*

Tax Risks

Any amounts treated as "boot" will be taxable to the Purchasers. If, in a Section 1031 Exchange, money is received or deemed received in addition to the like-kind property (referred to as **"boot"**), then gain on the relinquished property is recognized up to the amount of boot. Although there is no direct authority on point (other than certain potentially favorable authority that allows taxpayers to treat certain transaction expenses as reducing amounts otherwise taxable as boot in a Section 1031 Exchange), prospective Purchasers should be aware that the IRS may take the position that certain costs paid or deemed paid from money received from the sale of the relinquished property are boot and, therefore, income to the Purchasers. For example, the IRS may contend that some amounts paid into a Supplemental Trust Reserve, if applicable, and amounts paid in connection with the Offering constitute boot received by the Purchasers and not a reinvestment in real estate. You must consult your tax advisors.

Code Section 470 and Tax-Exempt Use Property. Code Section 470 can disqualify certain replacement property from qualifying for nonrecognition treatment under Code Section 1031 if the replacement property is "tax-exempt use property" subject to a lease that fails to meet specific safe-harbor requirements. For this purpose, **"tax-exempt use property"** means that portion of any tangible property (other than **nonresidential real property**) leased to a **tax-exempt entity** in a disqualified lease. The term "nonresidential real property" includes "residential rental property." A building is treated as "residential rental property" if 80% or more of its gross rental income for the taxable year comes from rental income from dwelling units. "Nonresidential real property" means any Code Section 1250 property which is not residential rental property, or is property with a class life of less than 27.5 years. A "tax-exempt entity"

includes: (i) the United States, any state or political subdivision or possession of the United States, or any agency or instrumentality of the foregoing; (ii) tax-exempt organizations (e.g., organizations exempt under Code Sections 401 and 501); (iii) foreign persons and entities; and (iv) certain Native American tribal governments. A “disqualified lease” is defined as any lease of property to a tax-exempt entity that satisfies at least one of four conditions provided under Code Section 168, which generally relate to financing terms, availability of a purchase option, length of a lease term, and previous use of the property by a party related to the tax-exempt entity. However, nonresidential real property is not tax-exempt use property if the portion of such property leased to tax-exempt entities in disqualified leases is equal to or less than 35% of the property measured by net rentable floor space of the property.

Tax-exempt use property is subject to the rules and restrictions under Code Sections 168 and 470. If property is treated as tax-exempt use property, tax-exempt use loss is disallowed for any taxable year. Tax-exempt use loss generally consists of the depreciation and interest deductions relating to the property. Further, Code Section 470 provides coordination rules with the nonrecognition provisions of the Code as they relate to both relinquished property and replacement property for purposes of Code Section 1031 and Code Section 1033. These coordination rules provide that Code Section 1031 does not apply if replacement property is tax-exempt use property unless an exception under Code Section 470(d) applies. Specifically, Code Section 470(d) contains an exception under which the limitations of Code Section 470 will not apply if a lease meets certain requirements.

The Sponsor has received an opinion from Tax Counsel indicating that Tax Counsel believes the Elizabeth on Seventh Property should not be subject to the limitations of Code Section 470 because less than 35% of the net rentable square feet of the Elizabeth on Seventh Property is leased to tax-exempt entities in disqualified leases. However, there can be no assurance that the IRS would agree with this conclusion. If the IRS determines that the Novant Lease gives rise to limitations under Code Section 470 with respect to the Elizabeth on Seventh Property, a portion of the Interest attributable to the Elizabeth on Seventh Property may not qualify for nonrecognition treatment as part of a Section 1031 Exchange. Further, any losses arising from the Elizabeth on Seventh Property may be subject to applicable limitations under Section 470. See “*Tax-Exempt Use Property Under Code Section 470*” below under *U.S. Federal Income Tax Consequences* for further discussion.

See the Memorandum for “*Tax Risks.*”

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COMPENSATION AND FEES

The Sponsor, Dealer Manager, Manager, Master Tenant, and their respective affiliates will earn fees and reimbursements in connection with the Offering and sale of Interests and the management and sale of the Properties. The following table sets forth estimates of such compensation, fees and reimbursements, and other compensation. Actual amounts may vary depending upon the timing and amount of Interests sold and the timing of and proceeds from any sale of the Properties.

<u>Type of Compensation or Reimbursement</u>	<u>Method of Computation</u>
Offering:	
Sales Commissions:	The Dealer Manager will receive Sales Commissions of up to 5.0% of Total Sales, which it may re-allow to the Participating Dealers; provided, however, in the event a lower commission rate is negotiated with a Participating Dealer, the commission rate will be the lower agreed upon rate. The maximum amount of Sales Commissions is \$4,881,720.
Dealer Manager Fee:	The Dealer Manager will receive a Dealer Manager Fee of up to 1.0% of Total Sales, which fee the Dealer Manager may re-allow in whole or in part to the Participating Dealers. The maximum amount of Dealer Manager Fee is \$976,344.
Organization and Offering Expenses:	The TRS or its affiliate will receive reimbursement for Organization and Offering Expenses, on a non-accountable basis, equal to 0.5% of Total Sales. The maximum amount of Organization and Offering Expense reimbursement is \$488,172.
Other Closing Costs:	The TRS or its affiliate will receive reimbursement for Other Closing Costs equal to 0.5% of Total Sales. Other Closing Costs may include legal and closing costs actually incurred in connection with the due diligence and acquisition of the Properties, including but not limited to certain closing costs with respect to the Properties (such as title insurance, transfer taxes, recording fees, legal fees, and other expenses that may be incurred in the purchase of real estate), estimated to be 0.5% of Total Sales. This allowance does not include real estate brokerage fees. We will be responsible for any costs in excess of this sum and will be entitled to retain any unused funds on a non-accountable basis. The maximum amount of Other Closing Costs reimbursement is \$488,172.

Operations:

Management Fee:

Pursuant to the Parent Trust Agreement (and, if applicable the Parent Springing LLC Agreement), the Manager will be entitled to, and the Parent Trust will pay, the Management Fee as compensation to the Manager for management of the Parent Trust (or the Parent Springing LLC) and the Properties pursuant to the Parent Trust Agreement (or the Parent Springing LLC Agreement). The Management Fee will be in an amount up to 0.15% per annum of Total Sales, net of Sales Commissions and Expenses. The Management Fee will be paid quarterly in arrears on a pro rata basis as set forth in the Parent Trust Agreement, which may be subject to adjustment over time.

The Manager reserves the right to subcontract such management services and will pay all fees payable to such third-party contractors from such Management Fee.

Investor Servicing Fee:

The Parent Trust will pay, on behalf of the Beneficial Owners, the Investor Servicing Fee to the Dealer Manager up to 0.25% per annum of Total Sales, net of Sales Commissions and Expenses. The Investor Servicing Fee is payable quarterly in arrears on a pro rata basis to the Dealer Manager and may be re-allowed in whole or in part to Participating Dealers for ongoing services rendered to the Parent Trust.

Master Lease:

The Master Tenant will retain the excess, if any, of the rental income received from end tenants after payment of all amounts owed to the Parent Trust under the Master Lease and other capital and operating expenses associated with the maintenance and operation of the Properties.

Disposition Fee:

The Manager will receive the Disposition Fee of up to 1.0% of the gross proceeds from any sale, exchange, or other disposition of all, or a portion of, the Trust Estate. The Disposition Fee will not include any sales commissions payable to any third-party broker in connection with such sale or other disposition. The Disposition Fee will not be payable in the event the FMV Option is exercised.

Property Management Fee

With respect to the Gateway One Property, the Master Tenant will be entitled to receive from its subtenants certain fees, including a portion of property management fees in addition to rents from such Properties.

FMV Option:

Fees/Expenses Payable Following FMV Exercise:

If the Operating Partnership exercises its FMV Option and, as a result, a Beneficial Owner becomes an OP Unitholder, such OP Unitholder will be subject to the fees and expenses borne by OP Unitholders. Ongoing servicing fees will be paid with respect to certain classes of OP Units issued in exchange for Interests, as determined by the applicable financial professional's selling agreement with the Dealer Manager. The fee amount for each class of OP Units that may be received by a Beneficial Owner if the FMV Option is exercised, which may be subject to change, is currently:

- with respect to outstanding Class T-1 units, 0.85% per annum of the aggregate NAV, consisting of a representative investor servicing fee of 0.65% per annum, and a dealer investor servicing fee of 0.20% per annum of the aggregate NAV of outstanding Class T-1 units; however, with respect to Class T-1 units issued in exchange for Interests sold through certain participating broker-dealers, the representative investor servicing fee and the dealer investor servicing fee may be other amounts, provided that the sum of such fees will always equal 0.85% per annum of the NAV of such units;
- with respect to outstanding Class S-1 units, 0.85% per annum of the aggregate NAV of outstanding Class S-1 units;
- with respect to outstanding Class S-2 units, 0.35% per annum of the aggregate NAV of outstanding Class S-2 units (if certain investment thresholds are met);
- with respect to outstanding Class D-1 units, 0.25% per annum of the aggregate NAV of outstanding Class D-1 units;
- with respect to outstanding Class S-PR1 units, 0.85% per annum of the aggregate NAV of outstanding Class S-PR1 units;
- with respect to outstanding Class S-PR2 units, 0.35% per annum of the aggregate NAV of outstanding Class S-PR2 units (if certain investment thresholds are met);
- with respect to outstanding Class I units, there

will be no ongoing servicing fees; and

- with respect to outstanding Class K-PR units, there will be no ongoing servicing fees.

See the INREIT Materials at <https://www.sec.gov/search-filings> (CIK 0001756761).

The Sponsor, Master Tenant, Manager, Delaware Trustee, and their respective affiliates may receive additional compensation for any additional services performed on behalf of the Parent Trust or Beneficial Owners so long as such services are provided on terms and conditions no less favorable to the Parent Trust and Beneficial Owners than could be obtained from independent third parties for comparable services in the same location.

The Parent Trust will sell the Interests to the Beneficial Owners at a price that exceeds the amount that the Depositor paid for its Class 2 Beneficial Interests. The Depositor will assume the obligation to pay certain costs, fees, and expenses related to the offering and organizational costs of the offering, and closing costs. To the extent that the actual Sales Commissions, Dealer Manager Fee, Organization and Offering Expenses, and Other Closing Costs are below the amounts projected or estimated, any such savings will be used first to fund overages in other categories and next will be retained by the Sponsor on a non-accountable basis. If, however, the actual Organization and Offering Expenses, and Other Closing Costs exceed the amounts projected or estimated, then the Sponsor will be responsible for any such shortfall.

The Adviser, the Dealer Manager, and their affiliates may also be entitled to additional fees and payments in connection with services provided to the Operating Partnership and INREIT. See the INREIT Materials at <https://www.sec.gov/search-filings> (CIK 0001756761). If your Interest is acquired by the Operating Partnership in exchange for OP Units or your OP Units are exchanged for shares of Common Stock, these fees and expense reimbursements will reduce the return on your investment.

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ESTIMATED USE OF PROCEEDS

This table addresses the estimated use of proceeds from this Offering toward the costs, fees, and expenses that have been incurred or may be incurred in connection with this Offering. The Parent Trust is offering a maximum of \$97,634,409 of Interests, which, if sold in full, will represent 100% of the outstanding beneficial ownership interests in the Parent Trust. The proceeds raised from Purchasers in this Offering will be used to redeem the Parent Trust Class 2 Beneficial Interests held by the Depositor and to reimburse the Depositor, Sponsor, its affiliates, and other parties for the purchase of the Properties and for costs, fees, and expenses of the Offering as described below. See “*Summary of the Offering.*” This table does not address the allocation for U.S. federal income tax purposes of the amount paid by a Purchaser for its Interest. Potential Purchasers should discuss with their own tax advisors the tax treatment of the purchase of an Interest.

The following table sets forth the estimated use of proceeds from the Offering:

	Offering Proceeds	% of Maximum Offering Amount
Maximum Offering Amount	\$97,634,409	100.0%
Use of Proceeds		
Appraised value of the Properties (1)	\$90,800,000	93.0%
Sales Commissions (2)	\$4,881,720	5.0%
Dealer Manager Fee (3)	\$976,344	1.0%
Organization and Offering Expenses (4)	\$488,172	0.5%
Other Closing Costs (5)	\$488,172	0.5%
Total Use of Proceeds	\$97,634,409	100.0%

- (1) These amounts will be used to redeem the Depositor’s Class 2 Beneficial Interests in the Parent Trust and generally correspond to the Parent Trust’s price to purchase the Properties, which purchase was facilitated through the Depositor Contribution. The appraised value of the Properties was determined by the Appraisal performed by Capright (an independent third-party appraiser), which estimated the value of the Properties subject to the Master Lease.
- (2) The Dealer Manager will receive sales commissions of up to 5.0% of Total Sales, which it may re-allow to the Participating Dealers; provided, however, in the event a commission rate lower than 5.0% is negotiated with a Participating Dealer, the commission rate will be the lower agreed upon rate.
- (3) The Dealer Manager will also receive a Dealer Manager Fee of up to 1.0% of Total Sales, which it may re-allow in whole or in part to the Participating Dealers.
- (4) The TRS or its affiliate will receive reimbursement for expenses incurred in connection with the Offering on a non-accountable basis equal to 0.5% of Total Sales, including, but not limited to, the costs of organizing the Trusts and other entities, estimated marketing, legal, finance, accounting, and printing fees.
- (5) The TRS or its affiliate will receive reimbursement for expenses incurred in connection with Other Closing Costs on a non-accountable basis equal to 0.5% of Total Sales, including, but not limited to, any applicable state, local, franchise, sales and transfer taxes, title charges,

escrow fees, document preparation fees, legal fees, third-party costs, recording fees and entity formation costs, and other related costs. See “*Acquisition Closings.*” Each Purchaser will be responsible for the fees associated with their own legal, tax, and other advisors.

For a description of the fees the Sponsor and its affiliates will receive in connection with the Offering, see “*Compensation and Fees.*”

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BUSINESS PLAN

General

The investment objectives for the Interests will be to (i) preserve the Purchasers' capital investment, (ii) provide quarterly distributions of available cash, and (iii) allow for the potential appreciation in value of the Properties. The Sponsor believes that the Properties combined with the Master Lease meet this investment criteria and offer an attractive opportunity to invest in a portfolio of high quality, well-located industrial and mixed-use office and retail assets in attractive U.S. markets.

Investment Highlights

- ***Focused Property Portfolio*** – We believe that the combination of industrial and mixed-use office and retail assets provides complementary exposure across defensive and opportunistic sectors. Industrial real estate demand continues to be driven by consumer behavior, domestic consumption, and the growth of e-commerce, which we believe leads to resilient fundamentals despite economic volatility. Mixed-use office and retail real estate may diversify income streams, reduce reliance on a single tenant type, create synergies between uses, and provide exposure to both the recovering retail and repriced office sectors, which we believe will lead to strong investor demand. In combination, we believe the Properties offer a specialized portfolio of desirable, high-quality assets.
- ***Strength of Markets and Locations*** – We believe each of the Properties is well located in a compelling market supported by strong and diverse demand drivers. We believe that each market possesses a robust and stable economy and anticipate continued population and household growth. See “*Market and Location Overview*”.
- ***Experienced Asset Management*** – Invesco manages approximately \$2.2 trillion in AUM as of December 31, 2025. IRE (Invesco Real Estate) is one of the largest real estate investment managers in the world, with \$84.2 billion in AUM as of September 30, 2025. Established in 1983, IRE currently operates across 21 offices in 16 countries and has over 600 employees worldwide. IRE offers private and public real estate strategies across the entire risk-return spectrum, including debt and equity structures.

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THE PROPERTIES

General information about the Properties is summarized below. Certain information about the Properties contained in this section of the Property Supplement is available in the Appraisal prepared by Capright, the PCAs, the surveys for (i) the Elizabeth on Seventh Property (the “**Elizabeth on Seventh Property Survey**”), and (ii) the Gateway One Property (the “**Gateway One Property Survey**” together with the Elizabeth on Seventh Property Survey, collectively, the “**Surveys**” and each, a “**Survey**”), and the zoning reports for (i) the Elizabeth on Seventh Property (the “**Elizabeth on Seventh Property Zoning Report**”), and (ii) the Gateway One Property (the “**Gateway One Property Zoning Report**” together with the Elizabeth on Seventh Property Zoning Report, collectively, the “**Zoning Reports**” and each, a “**Zoning Report**”). Neither the Trusts nor the Sponsor have independently verified the information obtained from these sources, and no assurance can be provided as to the accuracy or completeness of the data. The Sponsor has revised portions of the sources included in this section to eliminate typographical errors, to eliminate duplicative language, and to conform certain definitions contained in this Property Supplement. To the knowledge of the Sponsor, there have been no material changes to the conditions of the Properties from the date of the reports discussed in this section and the date of this Property Supplement.

At the Elizabeth on Seventh Closing, the Parent Trust acquired 100% of the membership interests in the Elizabeth on Seventh PropCo, immediately followed by the conversion of the Elizabeth on Seventh PropCo into the Elizabeth on Seventh Trust. At the Gateway One Closing, the Gateway One Trust acquired the Gateway One Property by special warranty deed from an unrelated third-party seller. None of the Properties are encumbered with any debt.

The Elizabeth on Seventh Property Overview

The Elizabeth on Seventh Property is a mixed-use office and retail building located at 1942 East Seventh Street, Charlotte, North Carolina 28204. According to the Elizabeth on Seventh Property PCA, the Elizabeth on Seventh Property was built in 2022 and consists of one four story mixed-use office and retail building comprising approximately 100,537 net rentable square feet. The Elizabeth on Seventh Property is situated on approximately 1.679 acres, as referenced in the Elizabeth on Seventh Property Survey. According to the Elizabeth on Seventh Property PCA, the Elizabeth on Seventh Property includes retail spaces on the ground floor, office spaces on the upper floors, and provides two main vehicular entrances to the parking deck, one along East Seventh Street and one along North Caswell Road. According to the Elizabeth on Seventh Property Survey, the Elizabeth on Seventh Property has approximately 359 total parking spaces, which include eight ADA-designated parking spaces, of which two, according to the Elizabeth on Seventh Property PCA, are van designated. As of March 31, 2026, the Elizabeth on Seventh Property was 95.3% leased and occupied by 19 tenants.

The Elizabeth on Seventh PropCo, a subsidiary of the Operating Partnership, originally bought the Elizabeth on Seventh Property on December 30, 2025, for a purchase price of \$58.2 million (inclusive of closing costs) from an unaffiliated third party. Based on the Appraisal, the market value of the Elizabeth on Seventh Property, subject to the Master Lease, is \$58.2 million.

The Gateway One Property Overview

The Gateway One Property is an industrial facility located at 425 Distribution Drive, West Columbia, South Carolina 29170. According to the Gateway One Property PCA, the Gateway One Property was built in 2023 and consists of one single-story industrial building comprising approximately 252,720 net rentable square feet. The Gateway One Property is situated on approximately 14.325 acres, as referenced in the Gateway One Property Survey. According to the Gateway One Property PCA, the Gateway One Property contains two 12-foot wide by 13-foot high ramped drive-in doors, 27 9-foot wide

by 10-foot high dock-high doors with bumpers and manual levelers, and 35 future knock-out panels set in the exterior tilt wall. According to the Gateway One Property Survey, the Gateway One Property has approximately 338 total parking spaces, which include eight ADA-designated parking spaces and 131 striped trailer parking spaces. As of March 31, 2026, the Gateway One Property was 100% occupied by four tenants.

The Gateway One Trust originally bought the Gateway One Property on April 2, 2026, for a purchase price of \$32.6 million (inclusive of closing costs and outstanding leasing costs) from an unaffiliated third party. Based on the Appraisal, the market value of the Gateway One Property, subject to the Master Lease, is \$32.6 million.

Acquisition Price

The Parent Trust owns the Properties indirectly through the Operating Trusts. The Gateway One Trust acquired the Gateway One Property by special warranty deed from an unaffiliated third party on April 2, 2026 for a purchase price of \$32.6 million (inclusive of closing costs and outstanding leasing costs). The acquisition price is consistent with the Appraisal for the Gateway One Property.

On April 2, 2026, the Parent Trust acquired 100% of the membership interests in the Elizabeth on Seventh PropCo for value equal to the market value of the Elizabeth on Seventh Property indicated by the Appraisal.

Property	Parent Trust's Acquisition Price
The Elizabeth on Seventh Property	\$58.2 million
The Gateway One Property	\$32.6 million
Total	\$90.8 million

Following the contribution of the Elizabeth on Seventh PropCo, the Parent Trust caused the conversion of the Elizabeth on Seventh PropCo into the Elizabeth on Seventh Trust, pursuant to Delaware law. Each Operating Trust owns its respective Property in fee simple, and none of the Properties are subject to any financing.

The Offering is being priced consistent with the Appraisal, which reflect the combined value for the Properties (subject to the Master Lease) of \$90.8 million as of the date of the Appraisal.

Flood Zones

According to the Flood Insurance Rate Map maintained by the Federal Emergency Management Agency, the flood zone information for the Properties is summarized in the table below.

Property	Flood Zone
The Elizabeth on Seventh Property	X (unshaded); areas outside the 0.2% annual chance floodplain
The Gateway One Property	X (unshaded); areas outside the 0.2% annual chance floodplain

Seismic Zones

According to Figure 16-2 – Seismic Zone Map of the United States, contained in the 1997 edition of the Uniform Building Code, the seismic zone information for the Properties is summarized in the table below.

Property	Seismic Zone
The Elizabeth on Seventh Property	~ Zone 1 (Risk Category II); low-risk probability of damaging ground motion
The Gateway One Property	Zone 2A; low to moderate probability of damaging ground motion

Property Condition Assessments

The Elizabeth on Seventh Property PCA. The Elizabeth on Seventh Property PCA, dated January 5, 2026, concluded that generally the Elizabeth on Seventh Property appeared to be in overall fair to good condition, consistent with its type of construction, age, and current use. The Elizabeth on Seventh Property PCA recommended a preliminary budget of \$22,550 to be allocated for certain immediate repairs, which include: (i) installing hydraulic placards at each system riser for wet and dry systems, (ii) providing a sprinkler inventory list and sprinkler wrenches for each sprinkler type in the spare sprinkler cabinet, labeling control valves in the stairwells and fire pump room, installing missing hose connection caps, lowering sprinkler heads to achieve minimum clearance between sprinkler deflectors and insulation, (iii) resolving three fire alarm trouble or supervisory alarms present on the fire alarm control panel, (iv) providing a circuit breaker lock and identification on the fire alarm control panel, and (v) sealing unsealed penetrations in rated walls with listed firestopping materials or assemblies, and a preliminary budget of \$1,700 to be allocated for certain ADA accessibility costs, which include: (x) relocating two accessible parking spaces, and (y) restriping accessible parking spaces to achieve required minimum widths. The Elizabeth on Seventh Property PCA also recommended an estimated aggregate \$144,000 (uninflated) as capital reserves for repairs and replacements necessary over the next 10 years.

The Gateway One Property PCA. The Gateway One Property PCA, dated March 12, 2026, concluded that generally the Gateway One Property appeared to be in overall good condition, but identified certain items that appear to be construction defects and recommended some items for further review and minor work. The Gateway One Property PCA recommended a preliminary budget of \$2,000 to be allocated for certain immediate repairs, which include performing drywall repairs and fire caulking in a certain fire alarm control panel room. The Gateway One Property PCA also recommended an estimated aggregate \$494,500 (uninflated) as capital reserves for repairs and replacements necessary over the next 10 years.

Environmental Site Assessment

The Elizabeth on Seventh Property Phase I Report. The Elizabeth on Seventh Property has been evaluated for environmental hazards pursuant to the Phase I Environmental Site Assessment Report prepared by Targus dated November 20, 2025, based on a site visit conducted on November 5, 2025. The Elizabeth on Seventh Property Phase I Report, which was based on a walk-through observation of the accessible areas and interviews with facility personnel, local agency representatives, and other relevant personnel, limited observations of surrounding properties, and a records review, including regulatory databases and historical use information, was prepared in general conformance with the scope and limitations of ASTM Practice E1527-21.

The Elizabeth on Seventh Property Phase I Report noted that the Elizabeth on Seventh Property was historically occupied by automotive service stations and other small commercial operations. Petroleum use and USTs were present on-site for several decades beginning in the mid-20th century. In 1992, seven USTs were removed from the Elizabeth on Seventh Property. Petroleum impact was observed during removal, and approximately 825 cubic yards of impacted soil were excavated. Impacted soil remained in place in limited areas where further excavation was restricted by the presence of groundwater, structural limitations, or the property boundary. Groundwater sampling identified petroleum-related compounds in two monitoring wells installed down-gradient of former UST tank holds, and groundwater flow was measured toward the west. The NCDEQ issued a No Further Action determination in May 1999, concluding that the remaining soil and groundwater impacts did not pose a risk and that groundwater was unsuitable for potable use. In 2017, additional assessment was completed that included removal of two hydraulic lifts and installation of groundwater monitoring wells to investigate groundwater conditions. Impacted soil beneath one hydraulic lift was excavated to approximately two feet below the lift, and analysis of confirmation soil samples did not identify petroleum-related compounds above applicable action levels. Laboratory analysis of groundwater samples identified low concentrations of chloroform and o-xylene, both below their respective North Carolina Administrative Code 2L Groundwater Standards. In preparation for redevelopment, the Elizabeth on Seventh Property was entered into the NCBP, and the Elizabeth on Seventh Property Brownfields Agreement was recorded on April 22, 2021, establishing land use restrictions including a prohibition on groundwater use and limiting future use to commercial purposes. During redevelopment, eight previously unknown USTs were discovered and closed under NCDEQ oversight. Confirmation soil sampling following orphan UST removal identified petroleum-related impacts and one detection of tetrachloroethylene above their respective Preliminary Soil Remediation Goals. Affected areas were covered with clean fill or hardscape, and the Elizabeth on Seventh Property was redeveloped for commercial use. Because the Elizabeth on Seventh Property is enrolled in the NCBP, has recorded a Brownfields Agreement with enforceable land use restrictions, and considering that no unresolved releases migrating toward or from the Elizabeth on Seventh Property have been identified, Targus considers the historical releases at the Elizabeth on Seventh Property to be a CREC. Continued compliance with the Elizabeth on Seventh Property Brownfields Agreement and annual LURU requirements remains an ongoing obligation for the owner(s) of the Elizabeth on Seventh Property.

The Elizabeth on Seventh Property Phase I Report revealed no evidence of RECs, BERs, or significant data gaps in connection to the Elizabeth on Seventh Property. No further investigation was recommended.

The Gateway One Property Phase I Report. The Gateway One Property has been evaluated for environmental hazards pursuant to the Phase I Environmental Site Assessment Report prepared by Targus dated March 20, 2026, based on a site visit conducted on March 4, 2026. The Gateway One Property Phase I Report, which was based on a walk-through observation of the accessible areas and interviews with facility personnel, local agency representatives, and other relevant personnel, limited observations of surrounding properties, and a records review, including regulatory databases and historical use information, was prepared in general conformance with the scope and limitations of ASTM Practice E1527-21.

The Gateway One Property Phase I Report noted that historical and regulatory information indicates that the Gateway One Property is located within a larger parcel historically associated with pesticide disposal activities conducted during operations at the former Columbia Army Air Base during the 1940s. Available documentation indicates that pesticides used for pest control and base maintenance were reportedly disposed of within portions of the larger property during that period. Environmental investigations performed in connection with redevelopment later identified pesticide-related impacts in soil and groundwater within the larger tract that includes the Gateway One Property. The Gateway One Property was subsequently investigated and remediated under the South Carolina Voluntary Cleanup Program. Response actions reportedly included excavation and removal of impacted soils followed by confirmation sampling and regulatory review. The South Carolina Department of Environmental Services

issued a Certificate of Completion for Voluntary Cleanup Contract 21-4752-NRP in October 2022. However, because contaminants remained at concentrations exceeding unrestricted use criteria, institutional controls were implemented through the Gateway One Property DCR. The controls include restrictions on groundwater use, limitations on sensitive land uses such as residential development and schools, and requirements that soil disturbance activities be conducted in accordance with an approved Media Management Plan. Given that residual pesticide impacts associated with historical disposal activities on the site and surrounding adjoining properties remain present but are considered protective under the established internal controls, Targus considers the former pesticide disposal activities to represent a CREC. No further action is recommended by Targus at this time.

The Gateway One Property Phase I Report revealed no evidence of RECs, BERs, or significant data gaps in connection to the Gateway One Property. No further investigation was recommended.

Zoning Reports

The Elizabeth on Seventh Property Zoning Report. According to the Zoning Report prepared by ZoningTech LLC (“**ZoningTech**”) for the Elizabeth on Seventh Property dated November 12, 2025, and last updated April 22, 2026, the Elizabeth on Seventh Property is zoned “MUDD-O” (Mixed-Use Development District - Optional). The current use of the Elizabeth on Seventh Property is permitted, the property is legally conforming, and there are no open building, fire, or zoning code violations.

The Gateway One Property Zoning Report. According to the Zoning Report prepared by ZoningTech for the Gateway One Property dated March 16, 2026, and last updated on April 22, 2026, the Gateway One Property is zoned “ID” (Intensive Development). The current use of the Gateway One Property is permitted, the property is legally conforming, and there are no open building, fire, or zoning code violations.

Agreements and Other Matters Affecting the Properties

The Properties are or may become subject to various easements, declarations, restrictions, encroachments, and other agreements of record with neighboring landowners and local municipalities (the “**Property Restrictions**”), none of which, in the view of the Sponsor, are currently adversely impacting or are expected to adversely impact the ongoing business and commercial operations at the Properties. The most significant Property Restrictions, as determined by the Sponsor, are described below.

The Elizabeth on Seventh Property Brownfields Agreement. The Elizabeth on Seventh Property Brownfields Agreement imposes annual compliance reporting and environmental reporting obligations, including prohibitions on redevelopment without approval, construction and occupancy subject to environmental compliance, restrictions on storage of contaminants, and ongoing monitoring and compliance. As owner of the Elizabeth on Seventh Property, the Elizabeth on Seventh Trust must submit to North Carolina Department of Environmental Quality (“**DEQ**”) certain DEQ-approved environmental activity reports every January 31 during any redevelopment and a final report within 90 days after completion of any such redevelopment. In addition, an annual notarized LURU (Land Use Restrictions Update) must be submitted to DEQ and Mecklenburg County public health/environmental officials, confirming compliance and recordation with the Elizabeth on Seventh Property Brownfields Agreement. Further, physical redevelopment may only occur pursuant to a DEQ-approved “Environmental Management Plan”, which must be revised and re-approved for each redevelopment phase. Construction and occupancy at the Elizabeth on Seventh Property are subject to environmental compliance, and the Elizabeth on Seventh Property Brownfields Agreement imposes restrictions on storage of contaminants.

The Elizabeth on Seventh Property ROFO. Pursuant to the Brown Brothers Harriman Lease (as defined herein), the Brown Brothers Harriman Tenant (as defined herein) has a one-time right of first offer

(“**ROFO**”) to lease any available adjacent space on the fourth floor (the “**FO Space**”) of the Elizabeth on Seventh Property, within ten business days of receiving notice of availability. If the Brown Brothers Harriman Tenant declines or fails to respond, the ROFO terminates. If the Brown Brothers Harriman Tenant exercises its ROFO, the term of the tenant’s existing lease may be extended to be coterminous with the ROFO space lease, and the rent for the additional period is increased annually by the greater of 3% or the ROFO space rate.

The Elizabeth on Seventh Property ROFRs. Pursuant to the Bowman and Brooke Lease (as defined herein), the Bowman and Brooke Tenant (as defined herein) has the right of first refusal (“**ROFR**”) to lease any available space on the third floor (the “**FR Space**”) of the Elizabeth on Seventh Property. If the landlord receives a bona fide third-party offer for such space, the landlord must notify the Bowman and Brooke Tenant of the material lease terms, and the Bowman and Brooke Tenant has a limited period to elect to lease all of the space on the same terms. If the Bowman and Brooke Tenant declines, the landlord may lease the space to a third party on terms that are not materially more favorable, although the Bowman and Brooke Tenant’s ROFR may revive if the space is not leased within a specified period or if a subsequent lease terminates before the expiration of the Bowman and Brooke Lease.

Pursuant to the HCM Lease (as defined herein), the HCM Tenant (as defined herein) has a two-time ROFR to lease 8,121 square feet of office space on the second floor of the Elizabeth on Seventh Property, referred to as Suite 240 (“**Suite 240**”). Under the ROFR, if the landlord receives a written bona fide offer or proposal from a prospective tenant for the lease of part or all of Suite 240, the landlord must notify the HCM Tenant in writing of all relevant lease terms. The ROFR applies only to leasing (not a sale) of the property or Suite 240. If the HCM Tenant exercises its ROFR for Suite 240, the HCM Tenant’s existing lease must be extended to be coterminous with the Suite 240 lease, and base rent of the original lease increases by 3% annually during the extension.

The Gateway One Property Declaration of Easements, Covenants, and Restrictions. The Gateway One Property is subject to the terms of that certain Declaration of Easements, Covenants, and Restrictions dated December 20, 2022, as amended by that certain First Amendment to Declaration of Easements, Covenants, and Restrictions dated November 20, 2025, as further amended by that certain Second Amendment to Declaration of Easements, Covenants, and Restrictions dated November 20, 2025 (collectively, the “**Gateway One Property DECR**”). The Gateway One Property DECR provides for the creation of the 803 Park Association, Inc., a South Carolina nonprofit corporation (the “**803 Park Association**”), to own certain common areas benefitting the Gateway One Property and adjacent parcels and to provide for upkeep of such common areas, among other items. Pursuant to the terms of the Gateway One Property DECR, all owners of tracts that are affected by the Gateway One Property DECR are members of the 803 Park Association. The 803 Park Association retains exclusive voting control (via “Class B” interests) and appoints the board until the 803 Park Association no longer owns any portion of the affected properties or voluntarily terminates control. When the 803 Park Association’s control period ends, which can occur upon (i) the 803 Park Association or its affiliates no longer owning any portion of the affected properties or (ii) the 803 Park Association voluntarily terminating the control period, then, at such time, all owners of the affected properties will become “Class A Members” with voting rights proportional to such owners’ share of the applicable square footage. The members of the 803 Park Association are generally required to pay their proportionate share of common area assessments, not engage in certain prohibited activities, and grant applicable easements for access, repair, and other commonplace items. If a member of the 803 Park Association fails to timely pay their proportionate share of common area assessments, such member’s property that is subject to the Gateway One Property DECR may be subject to a lien. The failure to timely pay common area assessments or to abide by the terms of the Gateway One Property DECR can result in legal action brought by the 803 Park Association. In addition to common area assessments, the Gateway One Property DECR requires owners of commercial parcels to pay a separate fee to the 803 Park Association, which is calculated based on the square footage of applicable buildings and is subject to

periodic compounded increases. The Gateway One Property DECR further requires owners to maintain specified commercial property and liability insurance coverage, and in certain circumstances to name other owners or the 803 Park Association as additional insureds. If an owner fails to maintain required insurance coverage, the 803 Park Association may obtain such insurance on the owner's behalf and recover the cost of such insurance, together with interest, which amounts may be secured by a lien against the property. As the owner of title of the Gateway One Property, the Gateway One Trust will be a member of the 803 Park Association, be required to pay applicable assessments, and abide by the terms of the Gateway One Property DECR. The failure of the Gateway One Trust to timely pay assessments when due can result in lower economic returns to Beneficial Owners, and the failure of the Gateway One Trust to abide by the terms of the Gateway One Property DECR can likewise result in lower economic returns to Beneficial Owners or subject the Gateway One Trust to legal action taken by the 803 Park Association to enforce the terms of the Gateway One Property DECR. The Gateway One Property DECR also authorizes the 803 Park Association to grant easements and mortgage property owned by the association, which generally consists of the common areas.

The Gateway One Property Declaration of Covenants, and Restrictions. The Gateway One Property is also subject to the terms of the Gateway One Property DCR. The Gateway One Property DCR provides that the Gateway One Property is subject to a "Voluntary Cleanup Contract" entered into by the South Carolina Department of Health and Environmental Control, pursuant to and governed by multiple federal and state environmental statutes, including the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Brownfields/Voluntary Cleanup Program, as amended, the South Carolina Hazardous Waste Management Act, as amended, the State Underground Petroleum Environmental Response Bank Act, as amended, and the Pollution Control Act, as amended. The Gateway One Property DCR and the Voluntary Cleanup Contract impose certain restrictions on the development and use of the Gateway One Property and require submission of an annual statement of maintenance of the covenants and restrictions.

The Gateway One Property ROFNs. Pursuant to the L&L Products Lease (as defined herein), the L&L Products Tenant (as defined herein) has the right of first notification ("**ROFN**") on any contiguous space within the Gateway One Property prior to issuing a term sheet, letter of intent, or other offer to lease such space to any third party. Under the ROFN, if the landlord wishes to lease any part of the Gateway One Property contiguous to the L&L Products Tenant's premises, the landlord must notify the L&L Products Tenant in writing. The ROFN does not obligate the landlord or the L&L Products Tenant to execute a lease or lease amendment for such space, and thereafter the landlord does not have the unrestricted right to pursue a lease for such space with more than one party on terms acceptable to the landlord.

Pursuant to the Muc-Off Lease (as defined herein), the Muc-Off Tenant (as defined herein) has the ROFN on any contiguous space within the Gateway One Property prior to issuing a term sheet, letter of intent, or other offer to lease such space to any third party. Under the ROFN, if the landlord wishes to lease any part of the Gateway One Property contiguous to the Muc-Off Tenant's premises, the landlord must notify the Muc-Off Tenant in writing. The ROFN does not obligate the landlord or the Muc-Off Tenant to execute a lease or lease amendment for such space, and thereafter the landlord does have the unrestricted right to pursue a lease for such space with more than one party on terms acceptable to the landlord.

Encroachments. In addition to the foregoing, the Survey indicated a few encroachments with respect to the Elizabeth on Seventh Property. The Sponsor believes that these encroachments are sufficiently minor so as to not impede the operation or ownership of the Elizabeth on Seventh Property. The following chart denotes the encroachments identified on the Surveys:

Property	Title Item	Material Features
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The Elizabeth on Seventh Property	Encroachments	• A certain retaining wall is located within a certain right of way. • A certain building is located within a certain easement area.
The Gateway One Property	Encroachments	• None observed at the time of the Survey.

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DESCRIPTION OF THE END TENANTS AND THE END TENANT LEASES

The Master Tenant operates the Properties pursuant to the Master Lease. The Master Tenant subleases the Properties to the End Tenants. With a few exceptions, each of the End Tenants leases their respective Property pursuant to a long-term lease, with a minimum remaining term (without any extension options) of 6 months and a weighted average lease term of 72 months for the Elizabeth on Seventh Property and 86 months for the Gateway One Property. The End Tenant Leases are generally “net” leases or modified “gross” leases, meaning that in addition to the base rent payable pursuant to the End Tenant Leases, each End Tenant is also responsible for paying the allocable portion of certain expenses (or increases in such expenses) of their respective Property, including real estate taxes, insurance, and operating expenses. As of March 31, 2026, the Elizabeth on Seventh Property and the Gateway One Property were 95.3% and 100.0% leased to the End Tenants, respectively, as described below. Unless otherwise noted, capitalized terms used in this section and not defined herein are as defined in the applicable End Tenant Lease.

The Elizabeth on Seventh Property End Tenants

ABRY Partners II, LLC. ABRY Partners II, LLC, a Delaware limited liability company (the “**ABRY Tenant**”), currently leases and occupies approximately 3.69% of the Elizabeth on Seventh Property pursuant to an office lease entered into on April 22, 2024, for an initial term of 36 months that commenced on May 1, 2024 (the “**ABRY Lease**”). The ABRY Tenant is a private equity investment firm focused on middle-market investments in sectors including business services, communications, financial services, healthcare, and information services. The ABRY Tenant occupies the premises as general office space. Pursuant to the ABRY Lease, the ABRY Tenant currently pays monthly base rent equal to \$15,003.09 through April 30, 2026, and then increasing by an average of approximately 3.25% annually thereafter through the lease expiration on April 30, 2027. The ABRY Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the then-prevailing fair market base rental for the premises, as mutually agreed upon by Landlord and Tenant or, if the parties cannot agree, as determined by a mutually selected third-party commercial real estate broker with at least ten years of experience in the relevant submarket. The ABRY Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease.

Abundant Power Group, LLC. Abundant Power Group, LLC, a North Carolina limited liability company (the “**Abundant Power Tenant**”), currently leases and occupies approximately 4.03% of the Elizabeth on Seventh Property pursuant to an office lease entered into on July 30, 2024, for an initial term of approximately 62 months that commenced on October 24, 2024 (the “**Abundant Power Lease**”). The Abundant Power Tenant is a sustainability-focused holding company that develops and operates businesses in areas such as energy efficiency, building technology, renewable energy, and environmental finance. The Abundant Power Tenant occupies the premises as general office space. Pursuant to the Abundant Power Lease, the Abundant Power Tenant currently pays monthly base rent equal to \$17,042.04 through September 30, 2026, and then increasing by an average of approximately 3.0% annually thereafter through the lease expiration on December 31, 2029. The Abundant Power Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the then-prevailing fair market base rental for the premises, as mutually agreed upon by Landlord and Tenant or, if the parties cannot agree, as determined by a mutually selected third-party commercial real estate broker with at least ten years of experience in the relevant submarket. The Abundant Power Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease.

Adams Beverages of North Carolina, LLC. Adams Beverages of North Carolina, LLC, a North Carolina limited liability company (the “**Adams Beverages Tenant**”), currently leases and occupies approximately 9.36% of the Elizabeth on Seventh Property pursuant to an office lease entered into in 2024,

for an initial term of approximately 91 months that commenced on December 1, 2024 (the “**Adams Beverages Lease**”). The Adams Beverages Tenant is a wholesale beverage distributor. It occupies the premises as general office space in connection with its operations, including administrative, sales, and management functions supporting the distribution of beer, malt beverages, and related products throughout North Carolina. Pursuant to the Adams Beverages Lease, the Adams Beverages Tenant currently pays monthly base rent equal to \$36,757.78 through November 30, 2026, and then increasing by an average of approximately 3.0% annually thereafter through the lease expiration on June 30, 2032. The Adams Beverages Tenant has a right to renew the lease for two additional five-year terms at a rental rate equal to the then-prevailing fair market base rental for the premises, as mutually agreed upon by Landlord and Tenant or, if the parties cannot agree, as determined by a mutually selected third-party commercial real estate broker with at least ten years of experience in the relevant submarket. The Adams Beverages Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease.

Becker Morgan Group, Inc. Becker Morgan Group, Inc., a Maryland corporation (the “**Becker Morgan Tenant**”), currently leases and occupies approximately 3.81% of the Elizabeth on Seventh Property pursuant to an office lease entered into on June 17, 2024, for an initial term of approximately 87 months that commenced on October 7, 2024 (the “**Becker Morgan Lease**”). The Becker Morgan Tenant occupies the premises as general office space for a full-service professional design firm providing architecture, engineering, planning, surveying, and interior design services. Pursuant to the Becker Morgan Lease, the Becker Morgan Tenant currently pays monthly base rent equal to \$15,450.86 through October 31, 2026, and then increasing by an average of approximately 3.0% annually thereafter through the lease expiration on January 31, 2032. The Becker Morgan Lease does not include a renewal option.

Behavioral Health Practice Services LLC. Behavioral Health Practice Services LLC, a Delaware limited liability company doing business as LifeStance Health (the “**LifeStance Tenant**”), currently leases and occupies approximately 4.16% of the Elizabeth on Seventh Property pursuant to an office lease entered into on October 25, 2022, for an initial term of approximately 87 months that commenced on May 15, 2023 (the “**LifeStance Lease**”). The LifeStance Tenant operates the premises as a medical office providing traditional outpatient mental and behavioral health services, including psychiatry, psychology, and talk therapy, together with related administrative and office functions. Pursuant to the LifeStance Lease, the LifeStance Tenant currently pays monthly base rent equal to \$16,637.56 through May 31, 2026, and then increasing by an average of approximately 3.0% annually thereafter through the lease expiration on August 31, 2030. The LifeStance Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the then-prevailing fair market base rental for the premises, as mutually agreed upon by Landlord and Tenant or, if the parties cannot agree, as determined by a mutually selected third-party commercial real estate broker with at least ten years of experience in the relevant submarket. The LifeStance Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease. The performance of the LifeStance Tenant under the LifeStance Lease is guaranteed by LifeStance Health, LLC.

Bowman and Brooke LLP. Bowman and Brooke LLP, a Minnesota limited liability partnership (the “**Bowman and Brooke Tenant**”), currently leases and occupies approximately 7.49% of the Elizabeth on Seventh Property pursuant to an office lease entered into on September 16, 2024, for an initial term of approximately 87 months that commenced on December 1, 2024 (the “**Bowman and Brooke Lease**”). The Bowman and Brooke Tenant occupies the premises as general office space for legal and related professional services. Pursuant to the Bowman and Brooke Lease, the Bowman and Brooke Tenant currently pays monthly base rent equal to \$33,591.05 through November 30, 2026, and then increasing by an average of approximately 3.0% annually thereafter through the lease expiration on February 29, 2032. The Bowman and Brooke Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the then-prevailing fair market base rental for the premises, as mutually agreed upon by Landlord and

Tenant or, if the parties cannot agree, as determined by a mutually selected third-party commercial real estate broker with at least ten years of experience in the relevant submarket. The Bowman and Brooke Tenant has a one-time early termination right allowing termination on February 28, 2030, subject to advance notice and payment of a \$226,842.12 termination fee. The Bowman and Brooke Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease.

Brown Brothers Harriman & Co. Brown Brothers Harriman & Co., a New York limited partnership (the “**Brown Brothers Harriman Tenant**”), currently leases and occupies approximately 10.07% of the Elizabeth on Seventh Property pursuant to an office lease entered into in 2024, for an initial term of approximately 130 months that commenced on October 1, 2024 (the “**Brown Brothers Harriman Lease**”). The Brown Brothers Harriman Tenant occupies the premises for general office purposes in connection with its financial services and investment management operations, together with customary ancillary administrative and professional activities. Pursuant to the Brown Brothers Harriman Lease, the Brown Brothers Harriman Tenant currently pays monthly base rent equal to \$38,654.18 through September 30, 2026, and then increasing by an average of approximately 3.0% annually thereafter through the lease expiration on July 31, 2035. The Brown Brothers Harriman Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the then-prevailing fair market base rental for the premises, as mutually agreed upon by Landlord and Tenant or, if the parties cannot agree, as determined by a mutually selected third-party commercial real estate broker with at least ten years of experience in the relevant submarket. The Brown Brothers Harriman Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease.

Charlotte Elizabeth, LLC. Charlotte Elizabeth, LLC, an Illinois limited liability company doing business as Catalina (the “**Catalina Tenant**”), currently leases and occupies approximately 5.50% of the Elizabeth on Seventh Property pursuant to a retail lease originally entered into on November 9, 2022, for a term of approximately 122 months that commenced on September 11, 2023, as amended by the First Amendment to Lease Agreement dated December 4, 2023 and the Second Amendment to Lease Agreement dated October 27, 2025 (as amended, the “**Catalina Lease**”). The First Amendment to the Catalina Lease confirmed the Delivery Date as February 13, 2023, granted an additional abatement of Fixed Minimum Rent for the last two full months of the initial Lease Term, and increased the Tenant Improvement Allowance. The Second Amendment to the Catalina Lease updated certain parking validation provisions. The Catalina Tenant operates a full-service (and to-go) American-themed restaurant with a full-service bar serving beer, wine, and liquor. Pursuant to the Catalina Lease, the Catalina Tenant currently pays monthly base rent equal to \$19,585.42 through September 30, 2026, and then increasing by an average of approximately 2.5% annually thereafter through the lease expiration on November 30, 2033. The Catalina Tenant has a right to renew the lease for two additional five-year terms at fixed rental rates set forth in the lease rider, escalating at approximately 2.5% annually during each renewal term. The performance of the Catalina Tenant under the Catalina Lease is guaranteed by Mike Ditka’s - Chicago, LLC.

Essential Services Intermediate Holding Corporation. Essential Services Intermediate Holding Corporation, a Delaware corporation doing business as TurnPoint Services (the “**TurnPoint Tenant**”), currently leases and occupies approximately 2.41% of the Elizabeth on Seventh Property pursuant to an office lease entered into on January 22, 2024, for an initial term of 63 months that commenced on May 1, 2024 (the “**TurnPoint Lease**”). The TurnPoint Tenant operates the premises for general office purposes, including corporate management, administrative, finance, HR, technology, and other back-office functions in support of its national portfolio of HVAC, plumbing, electrical, and related building-services companies. The TurnPoint Tenant functions as a holding and management platform for residential and commercial home-services brands that perform on-site repair and maintenance work at customer locations. Pursuant to the TurnPoint Lease, the TurnPoint Tenant currently pays monthly base rent equal to \$9,574.71 through April 30, 2026, and then increasing by an average of approximately 3.0% annually thereafter through the

lease expiration on July 31, 2029. If any utility or service to the premises becomes unavailable for a continuous period in excess of five business days following the Landlord's receipt of written notice, such unavailability is directly caused by the negligence or willful misconduct of the Landlord, and the TurnPoint Tenant is unable to, and actually does not, operate in the premises during such period due solely to such utility outage, all rent shall abate commencing on the sixth business day following the Landlord's receipt of written notice and shall continue until service is restored. The TurnPoint Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the then-prevailing fair market base rental for the premises, as mutually agreed upon by Landlord and Tenant or, if the parties cannot agree, as determined by a mutually selected third-party commercial real estate broker with at least ten years of experience in the relevant submarket.

HB Wealth Management, LLC. HB Wealth Management, LLC, a Delaware limited liability company (the "**HB Wealth Management Tenant**"), currently leases and occupies approximately 7.02% of the Elizabeth on Seventh Property pursuant to an office lease entered into on November 11, 2025, for an initial term of approximately 60 months that commenced on December 1, 2025 (the "**HB Wealth Management Lease**"). The HB Wealth Management Tenant operates the premises for general and administrative office purposes in connection with its business as a registered investment and wealth management firm providing financial planning, investment advisory, and related fiduciary services to individual and institutional clients. Pursuant to the HB Wealth Management Lease, the HB Wealth Management Tenant currently pays monthly base rent equal to \$29,996.50 through November 30, 2026, and then increasing by an average of approximately 3.25% annually thereafter through the lease expiration on November 30, 2030. The HB Wealth Management Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the then-prevailing fair market base rental for the premises (together with 3.25% annual escalations thereon during the renewal term), as mutually agreed upon by Landlord and Tenant or, if the parties cannot agree, as determined by a mutually selected third-party commercial real estate broker with at least ten years of experience in the relevant submarket. The HB Wealth Management Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease.

Hord Coplan Macht, Inc. Hord Coplon Macht, Inc., a Maryland corporation (the "**HCM Tenant**"), currently leases and occupies approximately 7.48% of the Elizabeth on Seventh Property pursuant to an office lease entered into on October 31, 2022, for an initial term of 125 months that commenced on May 1, 2023 (the "**HCM Lease**"). The HCM Tenant operates the premises for professional office purposes in connection with its business as an architecture, planning, and design firm providing architectural, interior design, and related professional consulting services. Pursuant to the HCM Lease, the HCM Tenant currently pays monthly base rent equal to \$29,921.36 through April 30, 2026, and then increasing by an average of approximately 3.0% annually thereafter through the lease expiration on September 30, 2033. The HCM Tenant has a right to renew the lease for two additional five-year terms at a rental rate equal to the then-prevailing fair market base rental for the premises, as mutually agreed upon by Landlord and Tenant or, if the parties cannot agree, as determined by a mutually selected third-party commercial real estate broker with at least ten years of experience in the relevant submarket. The HCM Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease.

Influenceable LLC. Influenceable LLC, a Delaware limited liability company (the "**Influenceable Tenant**"), currently leases and occupies approximately 2.77% of the Elizabeth on Seventh Property pursuant to an office lease entered into in November 2023, for an initial term of 36 months that commenced on November 1, 2023 (the "**Influenceable Lease**"). The Influenceable Tenant operates the premises for general office purposes in connection with its business as a digital marketing and influencer-management company providing influencer marketing campaigns, brand partnerships, content strategy, and related social-media advertising services for corporate and political clients. The Influenceable Tenant's operations

consist primarily of professional, creative, and administrative office activities performed by marketing, strategy, and account-management personnel. Pursuant to the Influenceable Lease, the Influenceable Tenant currently pays monthly base rent equal to \$11,555.59 through the lease expiration on October 31, 2026. The Influenceable Lease does not include a renewal option. The Influenceable Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease.

Lovejoy Ventures, L.L.C. Lovejoy Ventures, L.L.C., a North Carolina limited liability company doing business as Barre3 (the “**Barre3 Tenant**”), currently leases and occupies approximately 1.45% of the Elizabeth on Seventh Property pursuant to a retail lease originally entered into on March 16, 2023, for a term of 125 months, as amended by the First Amendment to Lease Agreement dated October 16, 2023 (as amended, the “**Barre3 Lease**”). The First Amendment to the Barre3 Lease granted the Barre3 Tenant the right to occupy certain interim premises within the Elizabeth on Seventh Property pending the Rent Commencement Date. On February 16, 2024, Landlord and the Barre3 Tenant entered into a certain Rent Commencement Date Agreement confirming the Rent Commencement Date as March 1, 2024 and updating the Fixed Minimum Rent schedule, with the Barre3 Lease expiring on July 31, 2034. The Barre3 Tenant operates a boutique fitness studio offering high-intensity barre and pilates-based fitness classes and related wellness programming as well as limited retail sales of apparel and non-alcoholic beverages. Pursuant to the Barre3 Lease, the Barre3 Tenant currently pays monthly base rent equal to \$5,791.96 through February 28, 2027, and then increasing by an average of approximately 2.5% annually thereafter through the current lease expiration on July 31, 2034. The Barre3 Tenant has a right to renew the lease for two additional five-year terms at fixed rental rates set forth in the lease rider, escalating at approximately 2.5% annually during each renewal term. The Barre3 Lease contains a Lease Rider noting a Franchise Agreement between the Barre3 Tenant and B3 Franchising, LLC (the “**B3 Franchisor**”) and granting the B3 Franchisor certain rights, including veto power over amendments, assignments, subleases, terminations, or other modifications, and a security interest in the Barre3 Lease and in all of the furniture, trade fixtures, inventory, equipment, and supplies located in the premises as collateral for the payment of any obligation by the Barre3 Tenant under the Franchise Agreement. The performance of the Barre3 Tenant under the Barre3 Lease is guaranteed by John Grantham and Sarah Grantham.

Lodging Capital Partners, L.L.C. Lodging Capital Partners, L.L.C., an Illinois limited liability company (the “**Lodging Capital Tenant**”), currently leases and occupies approximately 2.13% of the Elizabeth on Seventh Property pursuant to an office lease originally entered into on August 19, 2022, for an initial term of 89 months, as amended by the First Amendment to Lease Agreement dated August 14, 2023 (as amended, the “**Lodging Capital Lease**”). The First Amendment to the Lodging Capital Lease redefined the Commencement Date as July 11, 2023, updated the premises net rentable area to 2,145 square feet, and replaced the base rental table, with the Lodging Capital Lease expiring on December 31, 2030. The Lodging Capital Tenant occupies the premises for office purposes in connection with its hospitality investment and asset-management business focused on owning and managing upscale and luxury hotels. Pursuant to the Lodging Capital Lease, the Lodging Capital Tenant currently pays monthly base rent equal to \$8,154.34 through July 31, 2026, and then increasing by an average of approximately 3.0% annually thereafter through the lease expiration on December 31, 2030. The Lodging Capital Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the then-prevailing fair market base rental for the premises, as mutually agreed upon by Landlord and Tenant or, if the parties cannot agree, as determined by a mutually selected third-party commercial real estate broker with at least ten years of experience in the relevant submarket. The Lodging Capital Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease.

Luquire George and Andrews, Inc. Luquire George and Andrews, Inc., a North Carolina corporation (the “**Luquire Tenant**”), currently leases and occupies approximately 4.88% of the Elizabeth on Seventh Property pursuant to an office lease entered into on March 19, 2024, for an initial term of 50

months that commenced on May 1, 2024 (the “**Luquire Lease**”). The Luquire Tenant occupies the premises for office purposes in connection with its full-service advertising, marketing, and public relations agency. The premises function as the Luquire Tenant’s professional creative and administrative offices for brand strategy, advertising, digital marketing, and related client services. Pursuant to the Luquire Lease, the Luquire Tenant currently pays monthly base rent equal to \$19,425.46 through April 30, 2026, and then increasing by an average of approximately 3.25% annually thereafter through the lease expiration on June 30, 2028. If any utility or service to the premises becomes unavailable for a continuous period in excess of five business days following the Landlord’s receipt of written notice, such unavailability is directly caused by the negligence or willful misconduct of the Landlord, and the Luquire Tenant is unable to, and actually does not, operate in the premises during such period due solely to such utility outage, all rent shall abate commencing on the sixth business day following the Landlord’s receipt of written notice and shall continue until service is restored. The Luquire Lease does not include a renewal option. The Luquire Lease provides that 50% of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the rent payable under the lease.

Luxe Redux Charlotte, LLC. Luxe Redux Charlotte, LLC, a North Carolina limited liability company doing business as Luxe Redux (the “**Luxe Redux Tenant**”), currently leases approximately 2.56% of the Elizabeth on Seventh Property pursuant to a retail lease entered into on December 1, 2025, for a term of 120 months commencing on the Rent Commencement Date (the “**Luxe Redux Lease**”). Pursuant to the Luxe Redux Lease, the Rent Commencement Date is the earlier of (i) 180 days after the Effective Date of the lease or (ii) 120 days after the date on which the Luxe Redux Tenant receives its required building permits. The Luxe Redux Tenant will operate a retail bridal boutique specializing in bridal wear, bridal gowns, bridal accessories, wedding attire, and wedding-party accessories. Pursuant to the Luxe Redux Lease, the Luxe Redux Tenant will pay monthly base rent equal to \$9,430.67 through the end of the first 12-month rent period, and then increasing by approximately 3.0% annually thereafter through lease expiration. The Luxe Redux Tenant is in the process of building out its space, but none of the remaining work will be structural in nature. Accordingly, the Rent Commencement Date and the Lease Commencement date are still undetermined. The Luxe Redux Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the greater of (i) the then-prevailing fair market rental rate or (ii) 103% of the Fixed Minimum Rent payable in the immediately preceding calendar month, with 3.0% annual escalations during the renewal term. The Luxe Redux Lease is guaranteed by Luxe Redux Holdings, LLC, covering all monetary obligations under the lease, including rent, damages, and unamortized costs.

Novant Medical Group, LLC. Novant Medical Group, LLC, a North Carolina nonprofit limited liability company, formerly known as Novant Medical Group, Inc. (the “**Novant Tenant**”), currently leases and occupies 11.71% of the Elizabeth on Seventh Property pursuant to an office and medical office lease entered into on October 3, 2022, for an initial term of 120 months that commenced on August 1, 2023, as amended by the First Amendment to Lease Agreement dated June 27, 2023 and the Second Amendment to Lease Agreement dated January 31, 2024 (as amended, the “**Novant Lease**”). The First Amendment to the Novant Lease remeasured the rentable square footage of the leased premises from 11,870 to 11,776 square feet, confirmed the lease commencement date of August 1, 2023, and confirmed the lease expiration date of July 31, 2033. The Novant Tenant occupies the premises as a medical office and professional healthcare facility for the delivery of outpatient medical services to patients and related administrative functions typical of a medical practice. Pursuant to the Novant Lease, the Novant Tenant currently pays monthly base rent equal to \$43,205.51 through July 31, 2026, and then increasing by an average of approximately 3.0% annually thereafter through the lease expiration on July 31, 2033. The Novant Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the prevailing fair market rental rate for the premises at the time of renewal, as mutually agreed upon by Landlord and Tenant or, if the parties cannot agree, as determined by an MAI appraiser process. The Novant Lease provides that certain space sharing arrangements and transfers are permitted without consent of the Landlord so long as 50% or less of the premises are occupied under space-sharing arrangements, but notice to the Landlord is required,

and the Novant Tenant remains fully liable under the lease notwithstanding any transfer or a space-sharing arrangement. Half of any proceeds of any Transfer must be paid to the Landlord to the extent it exceeds the Rent payable under the lease.

Rosemont Market and Wine Bar, LLC. Rosemont Market and Wine Bar, LLC, a North Carolina limited liability company (the “**Rosemont Tenant**”), currently leases and occupies approximately 3.48% of the Elizabeth on Seventh Property (together with an associated outdoor seating area of approximately 866 square feet, which is excluded from rent calculations) pursuant to a retail lease originally entered into on November 10, 2021, for an initial term of 120 months, as amended by the First Amendment to Lease Agreement dated December 2, 2022 (as amended, the “**Rosemont Lease**”). The First Amendment to the Rosemont Lease redefined the Rent Commencement Date to January 10, 2023 following a three-month delay period, and extended the Lease Term by three months such that the Rosemont Lease expires on April 30, 2033. The Rosemont Tenant operates a full-service restaurant, wine bar, and specialty food market, with the on-site sale of beer, wine, liquor, and coffee. The space also includes an outdoor seating patio. Pursuant to the Rosemont Lease, the Rosemont Tenant currently pays monthly base rent equal to \$12,199.78 through January 31, 2027, and then increasing by an average of approximately 2.5% annually thereafter through the current lease expiration on April 30, 2033. The Rosemont Tenant has a right to renew the lease for two additional five-year terms at fixed rental rates set forth in the lease rider, escalating at approximately 2.5% annually during each renewal term. The performance of the Rosemont Tenant under the Rosemont Lease is guaranteed by Blake Thompson.

YMB Charlotte, LLC. YMB Charlotte, LLC, a North Carolina limited liability company doing business as The Yard Milkshake Bar (“**The Yard Tenant**”), currently leases and occupies approximately 1.33% of the Elizabeth on Seventh Property pursuant to a retail lease entered into on September 12, 2023, for a term of 120 months that commenced on March 5, 2024 (“**The Yard Lease**”). The Yard Tenant operates a retail dessert shop specializing in the sale of milkshakes, ice cream, cookie dough, and shaved ice, as a franchised, customer-facing concept. Pursuant to The Yard Lease, The Yard Tenant currently pays monthly base rent equal to \$5,323.01 through the end of the then-current 12-month rent period, and then increasing by approximately 3.0% annually thereafter through the current lease expiration on March 31, 2034. The Yard Tenant has a right to renew the lease for two additional five-year terms at fixed rental rates set forth in the lease rider, escalating at approximately 3.0% annually during each renewal term. The Yard Lease contains a Lease Rider noting a Franchise Agreement between The Yard Tenant and The Yard Milkshake Bar Franchising, LLC (“**The Yard Franchisor**”) and granting The Yard Franchisor certain rights, including veto power over renewals, extensions, assignments, and material modifications. The Yard Franchisor must receive lease default notices and may enter the premises to cure defaults of The Yard Tenant.

The Gateway One Property End Tenants

L&L Products, Inc. L&L Products, Inc., a Michigan corporation (the “**L&L Products Tenant**”), currently leases and occupies approximately 33.33% of the Gateway One Property pursuant to a lease originally entered into on August 26, 2025, for a term of 120 months that commenced on September 1, 2025, as amended by the First Amendment to Lease Agreement dated October 10, 2025 (as amended, the “**L&L Products Lease**”). On October 10, 2025, the L&L Products Lease was amended to confirm the lease commencement date as September 1, 2025, the rent commencement date as December 1, 2025, and the lease expiration date as November 30, 2035. The L&L Products Tenant operates a global materials-science and industrial manufacturing business focused on the production of advanced adhesives, sealants, structural reinforcement, and acoustic solutions for automotive, aerospace, and other industrial applications, with the premises used for manufacturing, warehousing, and related support functions. Pursuant to the L&L Products Lease, the L&L Products Tenant currently pays monthly base rent equal to \$51,246.00 through November 30, 2026, and then increasing by approximately 3.5% annually thereafter.

through the lease expiration on November 30, 2035, as well as an amortized portion of tenant improvements equal to \$3,861.00 in monthly rent through the lease expiration on November 30, 2035. The L&L Products Tenant has a right to renew the lease for two additional three-year terms at a rental rate equal to the greater of (i) a fair market rental rate, or (ii) 103.5% of the fixed minimum rent in effect during the last 12 months of the then-current lease term.

Local Boy Outfitters, LLC. Local Boy Outfitters, LLC, a South Carolina limited liability company (the “**Local Boy Outfitters Tenant**”), currently leases and occupies approximately 22.22% of the Gateway One Property pursuant to a lease entered into in November 2025, for a term of 60 months that commenced on December 1, 2025 (the “**Local Boy Outfitters Lease**”). The Local Boy Outfitters Tenant operates an apparel warehousing, distribution, and fulfillment business, including on-site printing, screen printing, and embroidery of clothing products, with the premises used for logistics, packaging, shipping, receiving, and related administrative and marketing functions rather than retail sales. Pursuant to the Local Boy Outfitters Lease, the Local Boy Outfitters Tenant currently pays monthly base rent equal to \$35,100.00 through November 30, 2026, and then increasing by an average of approximately 3.5% annually thereafter through the lease expiration on November 30, 2030. The Local Boy Outfitters Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the greater of (i) a fair market rental rate, or (ii) the then-current fixed minimum rent, with annual increases of 3.5% during the renewal term. The Local Boy Outfitters Tenant is in the process of building out its space, but any remaining Tenant Improvements will be non-structural.

Muc-Off USA LLC. Muc-Off USA LLC, a California limited liability (the “**Muc-Off Tenant**”), currently leases and occupies approximately 22.22% of the Gateway One Property pursuant to a lease entered into on November 13, 2024, for a term of 84 months that commenced on December 1, 2024 (the “**Muc-Off Lease**”). The Muc-Off Tenant operates a cycling and powersports care products business, using the premises for warehousing, storage, light assembly, and related logistics and general office functions, with no retail sales or heavy manufacturing conducted on-site. Pursuant to the Muc-Off Lease, the Muc-Off Tenant currently pays monthly base rent equal to \$37,486.80 through November 30, 2026, and then increasing by an average of approximately 4.0% annually thereafter through the lease expiration on November 30, 2031. The Muc-Off Tenant has a right to renew the lease for one additional five-year term at a rental rate equal to the greater of (i) a fair market rental rate, or (ii) the then-current fixed minimum rent, with annual increases of 4.0% during the renewal term. The performance of the Muc-Off Tenant under the Muc-Off Lease is guaranteed by Muc-Off Limited.

MW of West Columbia DC, LLC. MW of West Columbia DC, LLC, a South Carolina limited liability company doing business as Mattress Warehouse (the “**Mattress Warehouse Tenant**”), currently leases and occupies approximately 22.22% of the Gateway One Property pursuant to a lease originally entered into on May 27, 2022 with 803 Park, LLC (predecessor-in-interest to Gateway 1, LLC as landlord), for a term of 123 months, as amended by the First Amendment to Lease Agreement dated August 10, 2022 and the Second Amendment to Lease Agreement dated September 15, 2023 (as amended, the “**Mattress Warehouse Lease**”). The First Amendment to the Mattress Warehouse Lease adjusted the rentable square footage of the leased premises from 56,700 to 56,160 square feet in connection with an expansion of the building from 204,120 to 252,720 rentable square feet. The Second Amendment to the Mattress Warehouse Lease confirmed the lease commencement date of September 18, 2023, established the rent commencement date as December 18, 2023, and corrected the fixed minimum rent schedule. The Mattress Warehouse Tenant operates a mattress and bedding distribution business, using the premises for warehousing, bulk storage, and regional distribution of mattresses and related products, together with incidental general office functions, but not for on-site retail sales or manufacturing. Pursuant to the Mattress Warehouse Lease, the Mattress Warehouse Tenant currently pays monthly base rent equal to \$34,070.40 through September 17, 2026, and then increasing by an average of approximately 2.75% annually thereafter through the lease expiration on December 17, 2033. The Mattress Warehouse Tenant has a right to renew the lease for two

additional five-year terms at a rental rate equal to the greater of (i) a fair market rental rate, or (ii) the then-current fixed minimum rent, with annual increases of 2.75% during each renewal term. The performance of the Mattress Warehouse Tenant under the Mattress Warehouse Lease is guaranteed by Mattress Warehouse, LLC.

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MARKET AND LOCATION OVERVIEW

The following is a brief summary of the real estate markets in which the Properties are located. Unless otherwise indicated, the information contained in this section has been derived from third-party sources, including the Appraisal. Maps and location information included herein are for illustrative purposes only and are based on data obtained from third-party sources, including Google Maps © Google. Neither the Parent Trust nor the Sponsor has independently verified the information obtained from these sources and they cannot assure you of the accuracy or completeness of the data. However, we have revised certain portions of the information included in this section to eliminate typographical errors, to eliminate duplicative language, and to conform certain terms to the definitions contained in this Property Supplement. Forecasts and other forward-looking information are subject to the same qualifications and the additional uncertainties regarding other forward-looking statements in this Property Supplement.

Market: Charlotte, North Carolina

The Elizabeth of Seventh Property is located in the Charlotte-Gastonia-Concord, North Carolina-South Carolina metropolitan statistical area (the “**Charlotte MSA**”), a major commercial hub for the Carolinas and the nation’s second largest banking center, encompassing Cabarrus, Chester, Gaston, Iredell, Lancaster, Lincoln, Mecklenburg, Rowan, Union, and York counties in North Carolina, and York County in South Carolina. With a population of approximately 2.9 million residents, the Charlotte MSA combines a central location and good infrastructure, leaving it well positioned for continued growth. The table below summarizes the primary demographic indicators for the Charlotte MSA.

POPULATION/DEMOGRAPHICS				
	Charlotte MSA	North Carolina	South Carolina	United States
Population				
2010 Census	2,243,634	9,535,481	4,625,344	308,745,538
2025 Estimate	2,877,948	10,995,758	5,394,539	339,887,819
2030 Projection	3,061,963	11,445,142	5,702,418	347,149,422
2010 - 2025 % Annual Change	1.79%	1.02%	1.10%	0.64%
2025 - 2030 % Annual Change	1.25%	0.80%	1.12%	0.42%
Households				
2010 Census	858,361	3,745,157	1,801,170	116,716,292
2025 Estimate	1,148,017	4,489,106	2,227,265	132,422,916
2030 Projection	1,241,421	4,740,760	2,400,032	136,716,884
2010 - 2025 % Annual Change	2.10%	1.30%	1.53%	0.85%
2025 - 2030 % Annual Change	1.58%	1.10%	1.51%	0.64%
2025 Average Household Size	2.47	2.39	2.36	2.50
Income				
2025 Estimated Median Household	\$86,814	\$74,690	\$71,689	\$81,624
2025 Estimated Average Household	\$122,519	\$105,288	\$99,477	\$116,179
Source: Esri				

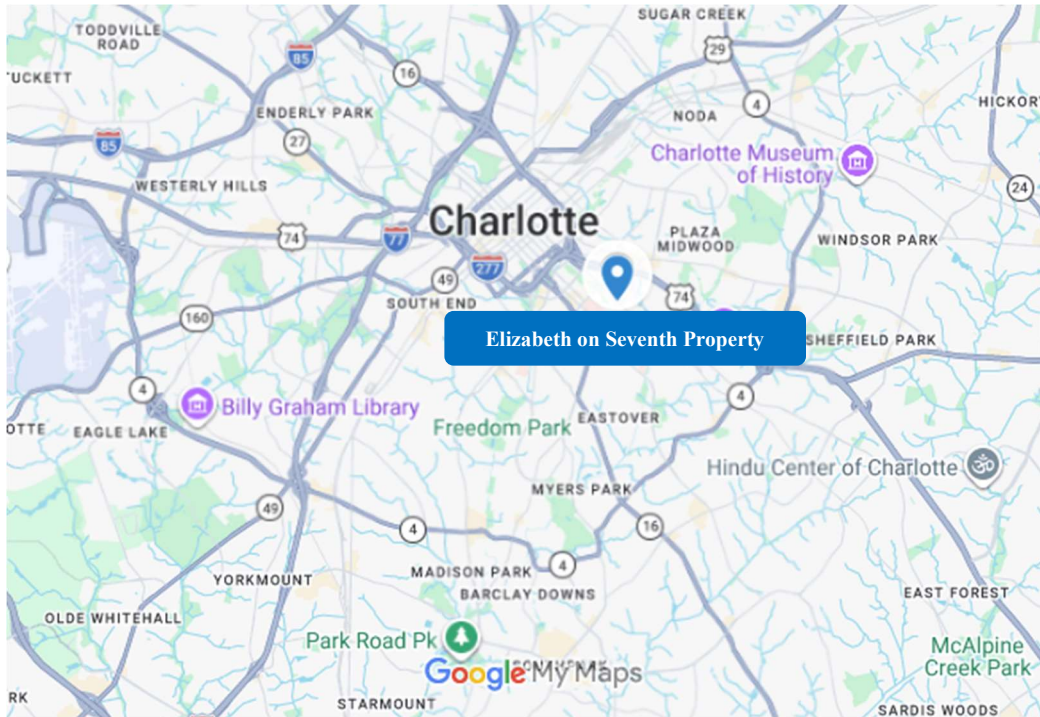
Economy. The Charlotte MSA is not only the major distribution point and service hub for the Carolinas, but is also the primary destination point for regional shopping, cultural activity, and recreational activities. Historically dominated by manufacturing employment due to its location, accessibility, and inexpensive labor, the Charlotte MSA’s economy has become increasingly more diverse over the past two decades. The Charlotte MSA serves as an important location to numerous Fortune 500 companies and hosts the headquarters of Bank of America and the East Coast operations of Wells Fargo, two of the largest banks in the United States. The tables below summarize the top employers in the region and employment by industry for the Charlotte MSA.

TOP EMPLOYERS IN THE REGION		
Top Employers	Industry	No. Employees
1 Atrium Health	Healthcare	39,000
2 Wells Fargo & Co.	Financial services	27,000
3 Bank of America	Financial services	19,590
4 American Airlines Group Inc.	Airline	14,923
5 Novant Health Inc.	Healthcare	14,762
Source: Business Journal, 2024		

EMPLOYMENT BY INDUSTRY FOR THE REGION	
Employment by Industry	Workforce (%)
Agriculture/Mining	0.50%
Construction	7.20%
Manufacturing	11.10%
Wholesale Trade	2.30%
Retail Trade	10.50%
Transportation/Utilities	6.50%
Information	1.70%
Finance/Insurance/Real Estate	10.90%
Services	46.50%
Public Administration	2.80%
Source: Esri	

Access. The Charlotte MSA's transportation system is diversified and extensive. Interstate 77 extends north-south from Cleveland, Ohio to Columbia, South Carolina, passing the western edge of Downtown Charlotte. Interstate 85 intersects with Interstate 77 on the north side of Charlotte, connecting Montgomery, Alabama with Interstate 95 in Virginia. Interstate 277 encircles Downtown Charlotte and has greatly improved access to the city's central business district. The Charlotte-Douglas International Airport, located west of Downtown Charlotte, is a hub for U.S. Airways and is the second largest airport in the southeastern United States.

Property Location. The Elizabeth on Seventh Property is situated in the Elizabeth neighborhood of Midtown Charlotte, approximately one mile southeast of Downtown Charlotte. The area surrounding the Elizabeth on Seventh Property is an established urban neighborhood, with office buildings and retail properties along East Seventh Street, and residential neighborhoods just off the main road. The Elizabeth on Seventh Property is just northeast of the Atrium Health Mercy Hospital and Novant Health Presbyterian Medical Center Hospital. The Elizabeth on Seventh Property is located just under a mile east of the nearest entrance to Interstate 277 which connects to Interstate 77, providing access to Virginia to the north and the Charlotte Douglas International Airport approximately seven miles to the west. The map presented below illustrates the location of the Elizabeth on Seventh Property within the Charlotte MSA.



Market: Columbia, South Carolina

The Gateway One Property is located in the Columbia, SC Metropolitan Statistical Area (the “**Columbia MSA**”), a mid-sized region centered on South Carolina’s state capital, encompassing Calhoun, Fairfield, Kershaw, Lexington, Richland, and Saluda counties. With approximately 0.9 million residents, the Columbia MSA boasts a diverse and resilient economy driven by the government, healthcare, education, military, logistics, and manufacturing sectors. The table below summarizes the primary demographic indicators for the Columbia MSA.

POPULATION/DEMOGRAPHICS			
	Columbia MSA	South Carolina	United States
Population			
2010 Census	767,600	4,625,344	308,745,538
2025 Estimate	861,314	5,394,539	339,887,819
2030 Projection	894,049	5,702,418	347,149,422
2010 - 2025 % Annual Change	0.83%	1.10%	0.64%
2025 - 2030 % Annual Change	0.75%	1.12%	0.42%
Households			
2010 Census	294,882	1,801,170	116,716,292
2025 Estimate	354,750	2,227,265	132,422,916
2030 Projection	375,563	2,400,032	136,716,884
2010 - 2025 % Annual Change	1.33%	1.53%	0.85%
2025 - 2030 % Annual Change	1.15%	1.51%	0.64%
2025 Average Household Size	2.34	2.36	2.50
Income			
2025 Estimated Median Household	\$70,944	\$71,689	\$81,624
2025 Estimated Average Household	\$96,975	\$99,477	\$116,179
Source: Esri			

Economy. The Columbia MSA benefits from the role of Columbia as the South Carolina state capital, with government services being a significant economic driver. The region also has a strong presence in education, anchored by the University of South Carolina, and in healthcare. Additionally, the Columbia MSA has a growing manufacturing sector, particularly in automotive and advanced materials, as

well as a vibrant cultural and arts scene attractive to tourists. The tables below summarize the top employers in the region and employment by industry for the Columbia MSA.

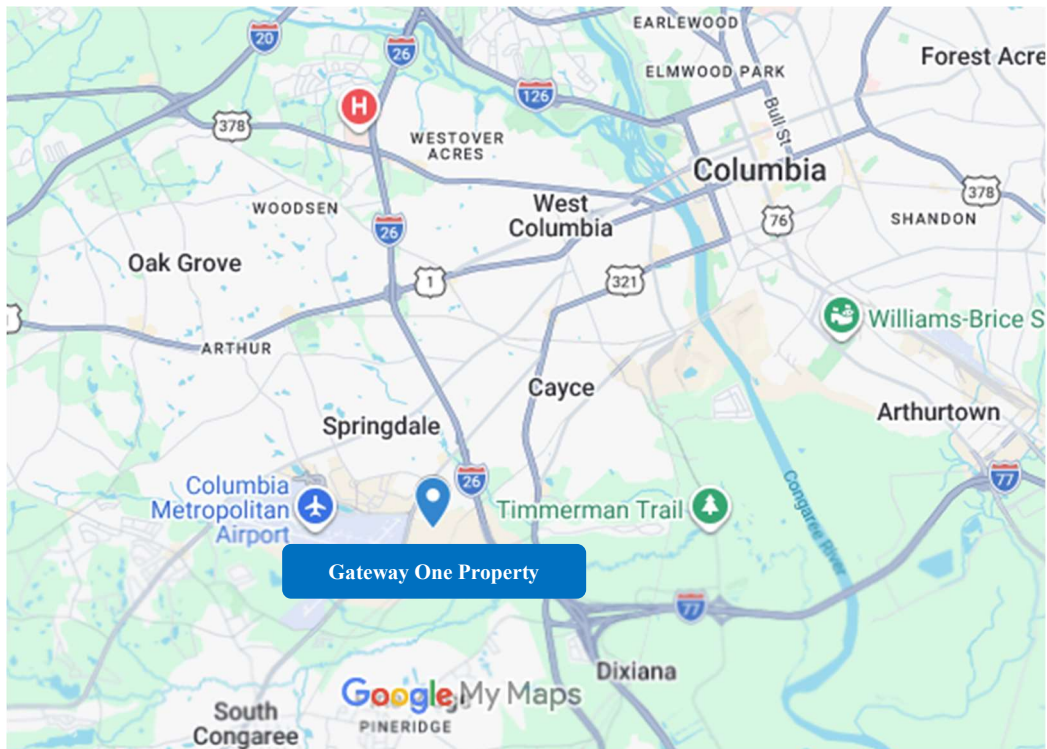
TOP EMPLOYERS IN THE REGION		
Top Employers	Industry	No. Employees
1 State of South Carolina	Government	32,085
2 Prisma Health Midlands	Healthcare	15,000
3 BlueCross BlueShield	Insurance services	10,998
4 Lexington Medical Center	Healthcare	6,557
5 University of South Carolina	Education	6,456
Source: ColaToday, 2025		

EMPLOYMENT BY INDUSTRY FOR THE REGION	
Employment by Industry	Workforce (%)
Agriculture/Mining	0.80%
Construction	6.50%
Manufacturing	9.00%
Wholesale Trade	2.00%
Retail Trade	10.10%
Transportation/Utilities	5.30%
Information	1.50%
Finance/Insurance/Real Estate	8.10%
Services	49.30%
Public Administration	7.30%
Source: Esri	

Access. The Columbia MSA is served by three major interstates: Interstate 20, a key east-west corridor linking it to Atlanta and Florence; Interstate 26, a vital north-south route connecting it to Charleston and Asheville; and Interstate 77, which provides direct access northward to Charlotte. Columbia Metropolitan Airport serves as the primary airport, offering domestic flights and air cargo services. While landlocked, the Columbia MSA relies on the Port of Charleston, which is approximately 120 miles away, for maritime trade. Freight rail is provided by CSX and Norfolk Southern, supporting industrial and agricultural transport, and Amtrak’s Silver Star offers passenger rail service to major East Coast cities.

Property Location. The Gateway One Property is located in West Columbia, approximately six miles southwest from Downtown Columbia and the University of South Carolina, and one block east of the Columbia Metropolitan Airport. The area surrounding the Gateway One Property is predominantly industrial, with a residential neighborhood to the north, and supporting commercial and service-oriented uses along major thoroughfares. The Gateway One Property is just under one mile from the closest entrance to Interstate 26, which provides access to the greater Columbia MSA, as well as Greenville to the northwest, and Charleston to the south.

The map presented below illustrates the location of the Gateway One Property within the Columbia MSA.



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THE ACQUISITION CLOSINGS

The Parent Trust owns the Properties indirectly through the Operating Trusts.

On April 2, 2026, the Gateway One Trust acquired the Gateway One Property by special warranty deed from an unaffiliated third party. Also, on April 2, 2026, the Parent Trust acquired 100% of the membership interests in the Elizabeth on Seventh PropCo, immediately followed by the conversion of the Elizabeth on Seventh PropCo into the Elizabeth on Seventh Trust pursuant to Delaware law.

Each Operating Trust owns its respective Property in fee simple, and none of the Properties are subject to any financing.

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ADDITIONAL DISCLOSURE REGARDING CERTAIN AGREEMENTS

The Trust Agreements

The Parent Trust

The Parent Trust is governed by that certain First Amended and Restated Trust Agreement dated April 2, 2026, by and among the Depositor, the Manager (in its capacity as manager of the Parent Trust and also in its capacity as the signatory trustee of the Parent Trust), and the Corporation Trust Company, as the Delaware Trustee. The Parent Trust owns 100% of the beneficial interests in each of the Operating Trusts. Purchasers will acquire their Interests in the Parent Trust subject to the Parent Trust Agreement and will thereupon become Beneficial Owners of the Parent Trust. The rights and obligations of the Beneficial Owners will be governed by the Parent Trust Agreement.

The Operating Trusts

Each of the Operating Trusts is governed by its respective Operating Trust Agreement, each dated as of April 2, 2026, by and among the Parent Trust (as the depositor to Operating Trusts), the Manager (in its capacity as manager of the respective Operating Trust), and the Corporation Trust Company, as the Delaware Trustee. The Manager may appoint in its sole discretion, from time to time, a co-trustee to serve with the Delaware Trustee for the limited purpose of executing any documentation that may require the signature of an authorized representative of each of the Operating Trusts.

Each Operating Trust will terminate upon the first to occur: (i) a sale of the Trust's Property or (ii) a Transfer Distribution (as defined herein). The Manager will sell all of the applicable Trust's right, title, and interest in the Trust's Property (subject to the Master Lease) and any and all other Trust property and assets upon its determination (in its sole discretion) that a sale is appropriate. If the Manager determines that the Master Tenant is insolvent or has defaulted in paying rent and in certain other circumstances, the Manager has the power to transfer title to the applicable Property to a newly formed Delaware limited liability company (the "**Springing LLC**") and terminate the applicable Trust (the "**Transfer Distribution**"). If a Trust is terminated pursuant to a Transfer Distribution, the Beneficial Owners will become members in the applicable Springing LLC, and the Manager, or an entity controlled by the Manager, will become the manager of the applicable Springing LLC. See "*Summary of the Trust Agreement*" in the Memorandum.

Fees and Compensation to the Manager and its Affiliates

The Parent Trust shall pay the following fees: (i) the Management Fee, which shall be paid quarterly in arrears, in an amount up to 0.15% per annum on Total Sales in the Class 1 Beneficial Interests, net of Sales Commissions and Expenses, (ii) the Investor Servicing Fee to the Dealer Manager, which shall be paid quarterly in arrears, in an amount up to 0.25% per annum on Total Sales in the Class 1 Beneficial Interests, net of Sales Commissions and Expenses, and (iii) a Disposition Fee to the Manager of up to 1.0% of the gross proceeds of any sale, exchange, or other disposition of all or any portion of the relevant Property or Trust Estate except a sale pursuant to the FMV Option. During the term of the Parent Trust Agreement, the Parent Trust shall reimburse the Manager for all reasonable, out-of-pocket expenses properly incurred by the Manager in performing services under the Parent Trust Agreement, provided such services are reflected in a budget provided by the Manager and approved by the Parent Trust, or as may otherwise be approved by the Parent Trust.

If the Operating Partnership exercises its FMV Option, and a Beneficial Owner receives OP Units for its Interests, ongoing investor servicing fees will be paid in amounts determined by the applicable financial professional's selling agreement with the Dealer Manager.

If the equity investment in the Class 1 Beneficial Interests changes, including as a result of a Transfer Distribution or a sale or transfer of a portion of the Properties, the fees determined by reference to the equity investment in the Class 1 Beneficial Interests shall be adjusted to reflect such change.

Tax Status of the Parent Trust

The Parent Trust Agreement provides that the Parent Trust is intended to qualify as an “investment trust” and a “grantor trust” for federal income tax purposes, and not as a partnership or other business entity. Thus, although the Parent Trust is respected as a separate entity for state law purposes, each Purchaser should be treated as owning a direct interest in the Properties for purposes of Code Section 1031. See “*U.S. Federal Income Tax Consequences*.” Each Purchaser will be required to report his, her or its Interests in the Parent Trust in a manner that is consistent with the foregoing.

The Master Lease

Each Property is leased by its respective Operating Trust to the Master Tenant pursuant to the Master Lease (for purposes of this section, the Operating Trusts together are the “**Landlord**”). The Master Lease is a “net” lease allocating to the Master Tenant all expenses associated with the operation of the Properties. The Master Tenant will operate the Properties and will be entitled to retain all of the Properties’ operating cash flow generated from the End Tenant Leases and such cash flow may be greater than the Master Lease payments allowing the Master Tenant to generate a profit. Likewise, the Master Tenant bears the risk of any cash shortfalls between the Properties’ operating cash flows generated by the End Tenant Leases and the payments required under the Master Lease.

This summary is qualified in its entirety by reference to the full text of the Master Lease. Each prospective Purchaser should carefully review the Master Lease in its entirety before investing. A copy of the Master Lease is available in the Digital Investor Kit.

Term

The Master Lease commenced on April 2, 2026 and will continue for a term of twenty (20) years thereafter, unless sooner terminated pursuant to the terms of the Master Lease.

Fixed Rent

The Master Tenant (supported by a Guaranty from the Operating Partnership) has entered into an “absolute net” or triple-net lease with the Operating Trusts. Under the Master Lease, the rents payable over the term of the Master Lease will be based on a market rate of rent for comparable property and for comparable terms and will be fixed subject to a schedule attached as an exhibit to the Master Lease. We anticipate that such rents will generally be sufficient for a return to be paid on the Purchasers’ Interests, including after the relevant expenses at the level of the Trusts (including the Management Fee, the Investor Servicing Fee, Delaware Trustee fees, and other ancillary expenses).

The quarterly “**Fixed Rent**” (as defined in the Master Lease) with respect to the Properties is specified in the Master Lease and is replicated below (the payments of Fixed Rent under the Master Lease are payable in arrears):

	Quarterly Rent			
	Years 1-5	Years 6-10	Years 11-15	Years 16-20
Elizabeth on Seventh Property	\$ 749,325.00	\$ 897,728.81	\$ 1,075,524.00	\$ 1,288,531.53
Gateway One Property	447,435.00	459,646.92	472,192.15	485,079.77
Total	\$ 1,196,760.00	\$ 1,357,375.73	\$ 1,547,716.15	\$ 1,773,611.30

Any partial periods at the beginning or end of the Term (as defined in the Master Lease) or resulting from the sale of a Property or Properties will result in prorated Fixed Rent for that period. To the extent one (or more, but not all) of the Properties are sold or transferred, the Fixed Rent due under the Master Lease will be reduced by the amounts attributable to such Property(ies).

The Guarantor

The Operating Partnership (which wholly owns the Master Tenant) has entered into the Guaranty whereby the Operating Partnership, as the Guarantor, will guaranty to the Operating Trusts, as lessors under the Master Lease: (i) the payment of all amounts due under the Master Lease including, without limitation, any rents payable by the Master Tenant to the Operating Trusts; (ii) the full and timely performance and observance of all of the terms, covenants, conditions and agreements under the Master Lease by the Master Tenant; and (iii) the payment of all costs and expenses incurred by the Operating Trusts in connection with the enforcement of any of the provisions of the Guaranty or the Master Lease, or the attempted collection of any amounts due thereunder. If the Master Tenant fails to duly and punctually pay any amount or perform or observe any term, covenant or condition of the Master Lease, the Guarantor will be obligated to pay, perform or observe the guarantees on demand.

Property Management

To assist the Master Tenant with its responsibilities in managing the Properties pursuant to the Master Lease, the Master Tenant has retained the Property Managers pursuant to the Property Management Agreements. Each Property Management Agreement governs the rights and obligations regarding the management of the applicable Property and the compensation to be paid to the applicable Property Manager. Each Property Management Agreement can generally be terminated without cause and without penalty at any time upon at least 30 days prior written notice to the applicable Property Manager, and with respect to the Elizabeth on Seventh Property, the Master Tenant can terminate immediately without notice by paying the Property Manager an amount equal to the immediately preceding month's base management fee. In general, each Property Manager will manage, coordinate, and supervise the ordinary and usual business and affairs pertaining to the operation, maintenance, leasing, licensing, and management of the applicable Property. For the Elizabeth on Seventh Property, Spectrum will receive a property management fee equal to the greater of (i) 3.0% of the Gross Rental Receipts (as defined in the Property Management Agreement for the Elizabeth on Seventh Property) for the applicable month or partial month, and (ii) \$5,000 per month or a pro rata portion thereof for any partial month. For the Gateway One Property, JLL will receive a property management fee equal to (i) 2.0% of the Gross Rental Receipts (as defined in the Property Management Agreement for the Gateway One Property) for the applicable month or partial month. With respect to the Gateway One Property, the Master Tenant will receive an amount equal to 1% of Gross Rental Receipts for the applicable month or partial month as compensation for certain administrative services, including, without limitation, operations support, sustainability initiatives and risk management.

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LIMITED FIDUCIARY AND OTHER DUTIES

Delaware law permits the trust agreement of a DST to expand or restrict the duties (including fiduciary duties) of trustees, managers or other persons managing the business and affairs of a DST owed by the trustees to the trust or its beneficial owners or owed by such managers or other persons to the trust, its beneficial owners or its trustees, other than the implied covenant of good faith and fair dealing.

In the present case, the Parent Trust Agreement provides that the Trustees' and the Manager's duties, including fiduciary duties, and liabilities relating thereto to the Parent Trust and the Beneficial Owners are limited to those duties (including fiduciary duties) expressly set forth in the Parent Trust Agreement and the liabilities relating thereto. Further, as a measure of protection for purposes of the contemplated Section 1031 Exchanges, the Parent Trust Agreement provides that the Beneficial Owners do not have any power to give direction to the Trustees, the Manager or any other person, and that any attempt to exercise power shall not cause such Beneficial Owner to have duties (including fiduciary duties) or liabilities relating thereto, to the Parent Trust or to any other Beneficial Owner. These duties may be less than applicable to other investments, such as a partnership, limited liability company or corporation.

The Parent Trust Agreement further provides that (i) the Delaware Trustee will not be liable to the Parent Trust and the Beneficial Owners for certain acts or omissions performed or omitted by it except for acts or omissions arising out of willful misconduct or bad faith, (ii) the Manager will not be liable to any person except for its own fraud or gross negligence, and (iii) the Beneficial Owners will indemnify the Delaware Trustee and the Manager and each of their directors, officers, employees, and agents for any liability suffered by them arising out of their activities in connection with the Trusts, except for liabilities resulting from willful misconduct, bad faith, fraud or gross negligence, in the case of the Delaware Trustee, and fraud or gross negligence, in the case of the Manager. See "*Summary of the Trust Agreement*" in the Memorandum. Accordingly, the Beneficial Owners may have a more limited right of action than would otherwise be the case, absent such provisions.

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SUMMARY OF THE SUBSCRIPTION DOCUMENTS

General

Each prospective Purchaser must review, complete, and execute (as relevant) the documents contained within the Subscription Documents. Prospective Purchasers should review the Subscription Documents in their entirety with their own advisor and independent legal counsel before submitting an offer to buy an Interest. The following is merely a summary of the process and some of the significant provisions of the documents contained in the Subscription Documents, and is qualified in its entirety by the full text thereof, a copy of which is attached to this Property Supplement as Exhibit A. Prospective Purchasers should understand that the Parent Trust, in its sole discretion, reserves the right to accept or reject any offer to purchase the Interests in whole or in part for any reason or no reason whatsoever. Relevant portions of the Subscription Documents must be completed consistent with the instructions provided by the Sponsor and may include certain portions that must be completed in electronic and/or paper form. If a prospective Purchaser wishes not to receive or complete any portion of the Subscription Documents in electronic form, the prospective Purchaser should so elect by notifying the Parent Trust in writing. If the Parent Trust does not accept a prospective Purchaser's Subscription Documents within 30 days of its submission, then it shall be deemed rejected.

Submission of Offer to Purchase

A summary of the procedures for the offer and purchase of an Interest is set forth under “*How to Subscribe*” in the Memorandum.

Limited Representations

The Parent Trust provides limited representations or warranties in the Subscription Documents, including with respect to the ownership and condition of the Properties. Consequently, each Purchaser must rely on his, her or its own investigations and analysis of the Properties and is encouraged to seek the advice of his, her or its own independent legal counsel, accountants, and real estate advisors.

Indemnity

The Subscription Documents contain an indemnity provision whereby each Purchaser will be required to indemnify, defend and hold the Trusts, the Sponsor, and their affiliates harmless from any and all damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees and costs) that they may incur by reason of the untruth or inaccuracy of any of the representations, warranties, covenants, or agreements contained in the Subscription Documents or in any other document the Purchaser has furnished to them.

No Tax Advice

Purchasers also will acquire their Interests without any representations from the Trusts, the Sponsor, the Depositor, or the Manager regarding tax implications of the transaction. The Parent Trust received an opinion of Tax Counsel on which each Purchaser may rely, but only concerning the matters specifically addressed therein. Notwithstanding the preceding sentence, the opinion of Tax Counsel is not intended or written to be used, and it cannot be used, by any Purchaser for the purpose of avoiding penalties that may be imposed under the Code. The Tax Opinion was written to support the promotion or marketing of a particular transaction, and each Purchaser should seek advice based on the Purchaser's particular circumstances from an independent tax advisor. A copy of the Tax Opinion is attached to this Property Supplement as Exhibit B.

Each Purchaser should consult his own independent legal counsel and other tax advisors regarding the tax implications of an investment in an Interest, including whether or not such investment will qualify for deferral of gain under Code Section 1031, if so contemplated. See “*U.S. Federal Income Tax Consequences.*”

Payment in Full

After your review of the Offering Materials, you must submit to the Parent Trust through your financial professional the completed Subscription Documents and payment via wire funds or equivalent from the qualified escrow account to the Parent Trust in payment of the subscription amount. Reservations are made on a “first come, first served” basis. Upon review and approval of the Subscription Documents and the Parent Trust’s receipt of 100% of your amount required to close, you will be contacted to schedule your Closing Date. Once your acquisition of an Interest in the Parent Trust has closed on your scheduled Closing Date, you will be provided a confirmation and a fully executed document package.

Bad Actors

If a prospective Purchaser is intending to purchase 20% or more of the Interests, the prospective Purchaser will be required to represent that the prospective Purchaser is not a “Bad Actor” as defined in Rule 506(d) of Regulation D under the Securities Act.

Dispute Resolution

Each Purchaser agrees that any dispute arising out of the Subscription Documents must be brought in a court of competent jurisdiction located in Dallas, Texas, and voluntarily waives any right he, she or it may have to a jury trial in such proceeding.

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U.S. FEDERAL INCOME TAX CONSEQUENCES

Tax Consequences Relevant to Interests

Possible Adverse Tax Treatment for Closing Costs and Reserves. A portion of the proceeds of the Offering will be used to pay each Purchaser's pro rata share of closing costs, expenses, and other costs of the Offering. Because the tax treatment of certain expenses of the Offering, closing costs, financing costs, or reserves is unclear and may vary depending upon the circumstances, no advice or opinion of Tax Counsel will be given regarding the tax treatment of such costs and reserves, and which may result in the recognition of taxable "boot" by a Purchaser funding its share of such costs and expenses using relinquished property sales proceeds being held to consummate a Section 1031 Exchange. Therefore, each prospective Purchaser (and particularly those Purchasers desiring to acquire an Interest as "replacement property" for a Section 1031 Exchange) should seek the advice of a qualified tax advisor as to the proper treatment of the Purchaser's payment of such costs and expenses.

"Real Property" for Purposes of Code Section 1031. On November 23, 2020, the Treasury and the IRS released final regulations (the "**Final 1031 Regulations**") defining "real property" for purposes of Code Section 1031. Under the Final 1031 Regulations, property is classified as real property for purposes of Code Section 1031 if the property is (i) classified as real property under the law of the state or local jurisdiction in which the property is located (subject to certain exceptions), (ii) specifically listed as real property in the Final 1031 Regulations, such as land, improvements to land, unsevered natural products of land, water and air space superjacent to land, and certain intangible interests in real property, or (iii) considered real property based on all the facts and circumstances under the various factors provided in the Final 1031 Regulations. The Final 1031 Regulations have also provided guidance for taxpayers receiving incidental personal property or paying for incidental personal property with funds being held by a qualified intermediary during a Section 1031 Exchange. Paying for or receiving personal property during a Section 1031 Exchange will not disqualify the entire transaction as long as the personal property is considered "incidental." Personal property will be considered "incidental" to real property acquired in a Section 1031 Exchange if, (i) in standard commercial transactions, the personal property is typically transferred together with the real property, and (ii) the aggregate fair market value of the incidental personal property transferred with the real property does not exceed 15% of the aggregate fair market value of the replacement property. Each prospective Purchaser will have to determine with such his, her, or its own tax advisors whether an exchange engaged in by the prospective Purchaser satisfies the requirements of Code Section 1031. Amounts used to establish reserves, if applicable, will not be treated as an interest in real estate and will be treated as "boot," which may be taxable to prospective Purchasers.

Identification. Treasury Regulations Section 1.1031(k)-1(c)(4) permits taxpayers to identify alternative and multiple replacement properties under Code Section 1031. All properties acquired within 45 days of the sale of the relinquished property are deemed to have been properly identified. In addition, taxpayers are permitted to identify three properties without regard to the fair market value of the properties (the so-called "**three property rule**") or multiple properties with a total fair market value not in excess of 200% of the value of the relinquished property (the "**200% rule**"). In the event that the IRS successfully challenges the valuation of a replacement property under the 200% rule, and as a result the replacement properties identified by the taxpayer exceed 200% of the value of the taxpayer's relinquished property, the taxpayer's identification may be treated as invalid, which may invalidate the taxpayer's like-kind exchange under Code Section 1031. A taxpayer also may identify any number of properties if it acquires at least 95% of the identified properties (the "**95% rule**"). The identification rules of Code Section 1031 are strictly construed, and a Purchaser's exchange will not qualify for deferral of gain under Code Section 1031 if too many properties are identified or if the deadlines for identification are not met.

For purposes of both the 200% rule and the 95% rule, "fair market value" means the fair market value of the property without regard to any liabilities secured by the property. Thus, a taxpayer identifying

under the 200% rule for an unencumbered relinquished property having a value of \$20 million could only identify replacement property(ies) having an aggregate gross fair market value (without regard to any liabilities which may encumber the property(ies)) of \$40 million, in which case the identification of a single replacement property having a \$30 million equity value but which is secured by a \$20 million liability (and, thus, having a \$50 million gross value) would violate the 200% rule.

For purposes of the three property rule, the IRS has not provided direct guidance on what constitutes “one property” for identification purposes. The IRS, however, did offer an interpretation of what constitutes “one property” in the context of multiple parcels of property owned by co-owners leased to a single tenant. Although this interpretation does not specifically apply to the identification rules under Code Section 1031, in Rev. Proc. 2002-22, the IRS provided that it will generally treat contiguous parcels as comprising a single business unit or “property.” Further, in Rev. Proc. 2002-22, the IRS provided that even if the parcels are not contiguous, the IRS may treat multiple parcels as comprising a single business unit where there is a close connection between the business use of one parcel and the business use of another parcel.

The identification rules of Code Section 1031 are strictly construed, and a Purchaser’s exchange will not qualify for deferral of gain under Code Section 1031 if too many properties or properties having too much value (including by reason of not excluding the effect of any loan for “fair market value” purposes) are identified, if the properties are not correctly identified, or if the deadlines for identification are not met.

Tax-Exempt Use Property Under Code Section 470. Under Code Section 470, a taxable entity is not permitted to deduct any loss from tax-exempt use property in excess of the taxpayer’s gross income from such property for that tax year, and losses from tax-exempt use property can be applied solely against income from the same property. The tax-exempt use loss disallowed under this rule with respect to any tax-exempt use property is treated as a deduction with respect to such property in the next tax year. Code Section 470(d) contains an exception under which the limitations of Code Section 470 will not apply to a property if the underlying lease meets certain requirements.

Code Section 470 provides coordination rules with the nonrecognition provisions of the Code as they relate to both relinquished property and replacement property for purposes of Code Section 1031 and Code Section 1033. These coordination rules provide that Code Section 1031 does not apply if replacement property is tax-exempt use property subject to a lease that does not meet the requirements of Code Section 470(d). Accordingly, the acquisition of replacement property will not qualify under Code Section 1031 to the extent the replacement property is tax-exempt use property subject to a lease that does not satisfy the requirements of Code Section 470(d). These requirements under Code Section 470(d) include: (i) certain restrictions on the availability of funds; (ii) a requirement that the lessor must make a substantial equity investment; (iii) a requirement that the lessee may not bear more than minimal risk of loss; and (iv) if the property has a useful life of more than seven years, whether the lessee has the option to purchase the property for a price other than fair market value (as determined at the time of the exercise of the purchase option).

Code Section 470 generally follows the rules of Code Section 168(h) in determining whether property is tax-exempt use property. The term “[tax-exempt use property](#)” means that portion of any tangible property (other than [nonresidential real property](#)) leased to a [tax-exempt entity](#) in a disqualified lease. For this purpose, the term “nonresidential real property” includes “residential rental property.” A building is treated as “residential rental property” if 80% or more of its gross rental income for the taxable year comes from rental income from dwelling units. “Nonresidential real property” means any Code Section 1250 property which is not residential rental property, or is property with a class life of less than 27.5 years. A “tax-exempt entity” includes: (i) the United States, any state or political subdivision or possession of the United States, or any agency or instrumentality of the foregoing; (ii) tax-exempt organizations (e.g., organizations exempt under Code Sections 401 and 501); (iii) foreign persons and entities; and (iv) certain

Native American tribal governments. A “disqualified lease” is defined as any lease of property to a tax-exempt entity that satisfies at least one of four conditions provided under Code Section 168, which generally relate to financing terms, availability of a purchase option, length of a lease term, and previous use of the property by a party related to the tax-exempt entity. However, nonresidential real property is not tax-exempt use property if the portion of such property leased to tax-exempt entities in what may otherwise be disqualified leases is equal to or less than 35% of the property measured by net rentable floor space of the property.

Tax Counsel has reviewed the Novant Lease and other information provided by the Sponsor, and has concluded that the Elizabeth on Seventh Property should not be subject to the limitations of Code Section 470 because less than 35% of the net rentable square feet of the Elizabeth on Seventh Property is leased to tax-exempt entities in disqualified leases. As detailed further in the Tax Opinion, the Novant Tenant (in its capacity as an office tenant) is a tax-exempt entity within the meaning of Code Section 168(h)(2), and the buildings comprising the Elizabeth on Seventh Property should be treated as nonresidential real property based on the definition of nonresidential real property provided above. Although Treasury Regulations under Code Section 168 allow for multiple buildings to potentially be treated together as “one” property under certain circumstances, Tax Counsel has conservatively assumed that the building in which the Novant Tenant leases space is not aggregated together with other buildings for purposes of this analysis. Nonetheless, because the Novant Tenant (as an office tenant) occupies 11,776 square feet of the total 100,537 square feet of rentable space in the applicable building, the Novant Tenant should be viewed as occupying less than 35% of the net rentable square feet of the Elizabeth on Seventh Property. Because the Novant Tenant is the only tenant that should be treated as a tax-exempt entity for purposes of Code Section 168 (as the remaining tenants are taxable entities occupying the Elizabeth on Seventh Property pursuant to retail and office leases), then less than 35% of the net rentable square feet of the applicable building should be viewed as leased to tax-exempt entities in disqualified leases.

Notwithstanding the foregoing, there can be no assurance that the IRS would agree with this conclusion. If the IRS were to determine that the Novant Lease were a disqualified lease that does not meet the requirements of Code Section 470(d), a portion of the Interest in the Elizabeth on Seventh Property may not qualify for nonrecognition treatment as part of a Section 1031 Exchange, and the use of losses from the Elizabeth on Seventh Property may be limited as described above. Each prospective Purchaser is strongly urged to seek advice from its own tax advisors regarding the applicability of the tax-exempt-use-property rules to the investment, based on particular circumstances at hand.

Role of Baker & McKenzie LLP as Tax Counsel. Baker & McKenzie LLP, Tax Counsel, has acted as federal income tax counsel and securities counsel with respect to the Offering, and has not acted as real estate counsel or in any other capacity with respect to the Offering. Tax Counsel’s tax opinion and advice to the Sponsor relates solely to federal income tax issues, and does not include advice on state or local income tax issues, property taxes, transfer taxes, stamp duty, lease tax or other non-income taxes, or any other non-tax issues. Tax Counsel does not represent the prospective Purchasers. Prospective Purchasers seeking legal advice should retain their own counsel, consult their own advisors about an investment in the Interests and conduct any due diligence they deem appropriate to verify the accuracy of the representations or information in this Property Supplement.

Please note that any discussions of federal income tax matters set forth in this Property Supplement have been written solely to support the marketing of the Interests. All prospective Purchasers must consult their own independent legal, tax, accounting and financial professionals regarding the federal income tax consequences of investing in the Interests in the context of their own particular circumstances, and must represent that they have done so as a condition to investing in the Interests.

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PLAN OF DISTRIBUTION

General

Subject to the terms and conditions set forth in this Property Supplement and the Parent Trust Agreement, the Parent Trust is offering a maximum of \$97,634,409 of Interests (i.e., the Maximum Offering Amount), which, if sold in full, will represent 100% of the outstanding beneficial ownership interests in the Parent Trust. Each Purchaser must pay cash for its Interests. The Interests may be purchased only by prospective Purchasers who satisfy the investor suitability requirements. See “*Who May Invest*” section of the Memorandum.

Marketing of Interests

The Parent Trust will offer the Interests on a “best efforts” basis through the Dealer Manager and through other Participating Dealers, as well as RIAs and other selling channels in the Parent Trust’s discretion. The Dealer Manager will use commercially reasonable efforts to engage and retain Participating Dealers to offer and sell the Parent Trust Class 1 Beneficial Interests. The Parent Trust Class 1 Beneficial Interests shall be offered and sold by the Dealer Manager and the Participating Dealers the Dealer Manager may retain; provided, however, that (i) each Participating Dealer whom the Dealer Manager retains shall represent to the Dealer Manager that it is (a) duly registered as a broker-dealer pursuant to the provisions of the Exchange Act and a member of FINRA in good standing and (b) duly licensed or registered by the regulatory authorities in the jurisdictions in which they will offer and sell the Parent Trust Class 1 Beneficial Interests, as set forth in an executed “Participating Dealer Agreement” between such Participating Dealer and the Dealer Manager and (ii) all such engagements of Participating Dealers are evidenced by written agreements, the terms and conditions of which substantially conform to the Participating Dealer Agreement, subject to any reasonable adjustments as determined in the sole discretion of the Dealer Manager.

The Dealer Manager will receive Sales Commissions of up to 5.0% of Total Sales, which it will re-allow to the Participating Dealers; provided, however, in the event a commission rate lower than 5.0% is negotiated with a Participating Dealer, the commission rate will be the lower agreed upon rate. The Dealer Manager will also receive a Dealer Manager Fee of up to 1.0% of the Total Sales, which fee the Dealer Manager may re-allow in whole or in part to the Participating Dealers. The total aggregate amount of Sales Commissions, Dealer Manager Fee, Organization and Offering Expenses, and Other Closing Costs will not exceed 7.0% of the Total Sales. See “*Estimated Use of Proceeds*.”

The Parent Trust may, in its discretion, accept purchases of Interests net of all or a portion of the Sales Commissions otherwise payable from Purchasers purchasing through an RIA with whom the Purchaser has agreed to pay a fee for investment advisory services in lieu of commissions, and affiliates of the Parent Trust, including the Sponsor, may purchase the Interests net of Sales Commissions, and the Dealer Manager Fee, to the extent waived.

The Parent Trust, the Sponsor, or other persons related to or affiliated with them, or other broker-dealers may purchase Interests on the same terms and conditions as any other Purchaser. Any such Purchaser may subsequently transfer Interests so acquired by them on the same terms and conditions as any other Purchaser.

The Parent Trust and each broker-dealer participating in an Offering will agree to indemnify each other against certain liabilities including liabilities under the Securities Act or the Exchange Act, as amended, and state securities laws.

The Parent Trust reserves the unconditional right to cancel or modify the Offering, to reject purchases of Interests in whole or in part, to waive conditions to the purchase of Interests and to allow purchases of less than the minimum purchase amount.

Subscription Period

The Parent Trust may hold the Initial Closing at any time after one or more subscriptions for Interests have been accepted by the Parent Trust. Following the Initial Closing, the remaining Interests will continue to be sold and closings may from time to time be conducted with respect to additional Interests sold until the Maximum Offering Amount of Interests is sold or, if earlier, until 12 months after the Initial Closing. The Offering Termination Date may be extended at the Sponsor's discretion for one twelve-month extension period. There is no assurance that all of the Interests will be sold.

Broker/Dealer Disqualifying Events

The Interests will be offered and sold pursuant to an exemption from the registration requirements of the Securities Act and in compliance with any applicable state securities laws. Effective September 23, 2013, the SEC adopted amendments to Rule 506 requiring certain disclosures to customers in connection with Regulation D private placement offerings, which includes this Offering. Specifically, the amendments require that the Parent Trust notify you if the broker/dealers selling Interests in this Offering have experienced certain specified "disqualifying events," including certain criminal convictions, certain court injunctions and restraining orders, final orders of certain state and federal regulators and certain SEC disciplinary orders and SEC cease-and-desist orders, among other events.

In order to inform you of any updates in connection with broker-dealers which have sold Interests in this Offering who have experienced certain specified "disqualifying events" under Rule 506(d) of Regulation D, the Sponsor has created Appendix A to provide ongoing disclosures as it is made aware of any disqualifying events from time to time. Please review Appendix A for such ongoing disclosures.

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LITIGATION

The Sponsor and its affiliates are subject to litigation from time to time, but in the opinion of the Sponsor, there are no actions pending against the Sponsor or the Manager, or, to the knowledge of the Manager and Sponsor, contemplated, that, based on facts and circumstances, are expected to have a material adverse effect on the Trusts, the Manager, the Sponsor or the Properties, their financial condition or their operations.

OTHER DOCUMENTS

Copies of the documents referred to in this Property Supplement or otherwise related to the Offering may be inspected at our office or upon your written request. All INREIT Materials are publicly available over the internet at the SEC's website at <https://www.sec.gov/search-filings> (CIK 0001756761). The Subscription Documents and the documents contained in the Digital Investor Kit as delivered are incorporated herein by reference.

REPORTS

The Parent Trust will prepare and send to each Beneficial Owner unaudited periodic reports and an unaudited annual report containing a cash basis trust-level year-end balance sheet and income statement. In addition, the Parent Trust will send to each Beneficial Owner such tax information as may be necessary for the preparation of the Beneficial Owner's tax returns.

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APPENDIX A

ONGOING DISCLOSURES RELATING TO BROKER-DEALERS

The Interests will be offered and sold pursuant to exemptions from the registration requirements of the Securities Act and in compliance with any applicable state securities laws. Effective September 23, 2013, the SEC adopted amendments to Rule 506 requiring certain disclosures to customers in connection with Regulation D private placement offerings. Specifically, the amendments require that the Parent Trust notify Purchasers if the broker-dealers selling Interests in the Offering has experienced certain specified “disqualifying events,” including certain criminal convictions, certain court injunctions and restraining orders, final orders of certain state and federal regulators and certain SEC disciplinary orders and SEC cease-and-desist orders, among other events.

In order to inform Purchasers of any updates in connection with broker-dealers which have sold Interests in this Offering who have experienced certain specified “disqualifying events” under Rule 506(d) of Regulation D, the Sponsor has created this Appendix A to provide ongoing disclosures as it is made aware of any disqualifying events from time to time.

Since the issuance of this Property Supplement, the Sponsor has been made aware of the following broker-dealer(s) disqualifying event(s):

On December 9, 2024, the Division of Corporation Finance on behalf of the SEC by delegated authority granted Morgan Stanley Smith Barney LLC, a Delaware limited liability company (“**MSSB**” or “**MSWM**”), a waiver of the disqualification provision in Rule 506(d)(1)(iv) of Regulation D under the Securities Act. For the duration of the undertakings detailed below, MSWM is required to furnish or cause to be furnished the following disclosure to customers prior to purchasing a Rule 506 offering issued or distributed by MSWM:

On December 9, 2024, the SEC entered into a settlement order with MSWM settling an administrative action, which relates to misappropriation of client funds in brokerage and advisory accounts by four former MSWM financial advisors (the “**FAs**”). The SEC found that MSWM failed to adopt and implement policies and procedures reasonably designed to prevent personnel from misusing and misappropriating funds in client accounts and that MSWM’s inadequate policies and procedures and systems to implement them led to its failure reasonably to supervise the four FAs, who misappropriated funds from client and customer accounts while employed at MSWM. Specifically, the SEC found that MSWM failed to adopt and implement policies and procedures reasonably designed to prevent and detect unauthorized externally-initiated ACH payments and unauthorized cash wires. Upon being informed of the potential unauthorized activity in the customer accounts of two of the FAs, MSWM promptly investigated the matters, terminated the FAs, reported the fraud to law enforcement agencies, and fully repaid the affected clients. MSWM also conducted a retroactive review of payment instructions for externally-initiated ACH payment instructions, which led to the identification of misconduct by the other two FAs. MSWM accordingly terminated the other two FAs and reported the misconduct to SEC staff. On its own initiative, MSWM instituted new written procedures to address the conduct at issue and retained an independent compliance consultant to perform a review and assessment. The SEC found that MSWM willfully violated section 206(4) of the Investment Advisers Act of 1940, as amended (the “**Investment Advisers Act**”) and Rule 206(4)-7 thereunder. The SEC also found that MSWM failed to supervise the FAs within the meaning of Section 203(e)(6) of the Investment Advisers Act and/or Section 15(b)(4)(E) of the Exchange Act. MSWM consented, without admitting or denying the

findings, to a censure; to cease and desist from committing or causing future violations; to certain undertakings, including the retention of an Independent Compliance Consultant to review MSWM's policies, procedures and controls related to the conduct in the Order and to pay a civil penalty of \$15,000,000.

The SEC administrative action brought against the former MSWM FAs was unrelated to Invesco, INREIT, the Sponsor, and their respective affiliates, or the Offering.

(Updated January 2025)

EXHIBIT A

SUBSCRIPTION DOCUMENTS

[ATTACHED]



Dear Investor:

We would like to take this opportunity to thank you for your interest in IREX V Diversified Portfolio DST (the “**DST**”). The DST is offering to sell (the “**Offering**”) to certain qualified, accredited investors, as defined in Rule 501(a) of Regulation D under the Securities Act of 1933, as amended, (each an “**Accredited Investor**”, collectively the “**Accredited Investors**”) beneficial ownership interests (each, an “**Interest**”) in the DST. The following describes the information, documents and funding required to purchase an Interest in the DST.

You, as a prospective investor, understand and agree that you must seek advice of your own counsel and advisors regarding an investment in the DST, including with respect to the tax aspects of a tax-deferred exchange under Section 1031 of the Internal Revenue Code of 1986, as amended (the “**Code**”), rules relating to deferral of gain, recapture of depreciation, taxability of certain amounts, identification of replacement property/ies, and other relevant aspects. You must conduct your own diligence to verify the accuracy of the representations or information in connection with your prospective investment in the DST.

Invesco Distributors, Inc. is the dealer manager for this Offering. As you and your advisors review the materials related to the Offering, including the confidential Delaware statutory trust program memorandum (together with all exhibits, amendments and supplements thereto, the “**Memorandum**”), and the applicable separate supplement to the Memorandum (together with all exhibits, amendments, and supplements thereto, the “**Property Supplement**”) relating to the DST and this Offering, please contact your financial professional’s Invesco relationship contact for any questions you might have when deciding about an investment in the DST. Once you have made the decision to participate in the Offering, your Invesco relationship contact will provide your financial professional and the relevant broker-dealer (“**Broker-Dealer**”) or Registered Investment Adviser (“**RIA**”) all of the necessary documentation (the “**Subscription Documents**”) to be reviewed and completed as further described below. To facilitate the onboarding process, we may utilize web-based order management systems to provide materials and Subscription Documents electronically to financial professionals, advisors, Broker-Dealers, RIAs and investors.

Osage Exchange LLC (“**Osage**”) is our program manager for Invesco Real Estate Exchange LLC (“**IREX**”) offerings and will facilitate investor closings. Representatives of Osage are available to guide you through the closing process and to answer any questions you might have regarding the closing of an Interest in IREX offerings. You can contact Osage at 1-877-418-4770 or by email at IREX@osage1031.com.

SS&C GIDS, Inc. (“**SS&C**”) acts as our registrar and transfer agent for IREX offerings. To make any changes or answer any questions regarding investor account maintenance issues such as changes to contact information or to request a replacement check for ongoing distributions, you can contact an Invesco account representative at SS&C by calling 1-833-834-4924. You can also access your account through our investor portal at <https://secureaccountview.com/BFWeb/clients/inreit/index>.

Unless otherwise defined herein, any capitalized terms shall have the meaning as set forth in the Memorandum.

1 | General Information

1A Investor Name:

(Trust or Entity, if applicable)

1B Amount of Equity Investment: \$

Please ensure that the Amount of Equity Investment is net of any fees and expenses including those payable to a Qualified Intermediary

1D Class of OP Unit

☐ Class T-1
0.85% of NAV servicing fee*

☐ Class S-1
0.85% of NAV servicing fee*

☐ Class D-1
0.25% of NAV servicing fee*

☐ Class I
0% of NAV servicing fee*

*OP Unit Investor Servicing Fees (per annum, payable monthly) (ongoing)

You acknowledge that, in the event that the Operating Partnership chooses to exercise the FMV Option by issuing OP Units, you will receive the class of OP Units indicated above (and as determined by an agreement with your financial professional's Broker-Dealer or RIA).

1C Sales Commission: %

1E Source of Funding

Select at least one

☐ Cash / Additional Cash Investment

☐ Section 1031 or 1033 tax-deferred exchange

Date Relinquished Property Sold

\$ Relinquished Property Tax Basis

\$ 1031 or 1033 Proceeds

\$ Relinquished Debt

Is this a 1033 Exchange? ☐ Yes ☐ No

2 | Form of Ownership

2A Account Type

Account Type:

Please note that investments will not be accepted from, or on behalf of (i) tax-exempt entities, including but not limited to qualified employee pension and profit-sharing trusts, individual retirement accounts, Simple 401(k) plans, annuities and charitable remainder trusts, or (ii) non-U.S. persons.

2B Entity Information (if applicable)

Entity Type:

Entity Name

Tax ID Number

Date of Formation

Entity Address

City

State

ZIP

Jurisdiction

Exemptions

(See Form W-9 instructions)

Exempt Payee Code

(If Any)

3 | Investor Information

The information provided in Section 3 must be compliant with IRS Form W-9 and related instructions. Please refer to www.IRS.gov for Form W-9.

3A Investor Name (Investor / Trustee / Executor / Authorized Signatory Information)

Name (first, middle, last)		Date of Birth	Tax ID Number (SSN/EIN)
Street Address	City	State	ZIP
Title	Email Address	Phone Number	
Citizenship Status: ☐ U.S. Citizen ☐ U.S. Resident Alien			

3B Investor Name (Investor / Trustee / Executor / Authorized Signatory Information, if applicable)

Name (first, middle, last)		Date of Birth	Tax ID Number (SSN/EIN)
Street Address	City	State	ZIP
Title	Email Address	Phone Number	
Citizenship Status: ☐ U.S. Citizen ☐ U.S. Resident Alien			

4 | Consent of Spouse

(For individual investors in community property states, which are currently Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Alaska, Florida, Kentucky, Tennessee, and South Dakota are opt-in community property states or states that permit the designation of certain assets as community property, that give both parties the option to make their property community property)

By providing my full legal name below and signing the Subscription Documents, as the spouse of the investor, I have read and hereby approve of the Subscription Documents, including that certain Purchase Agreement (as defined herein), which my spouse has signed. I hereby appoint my spouse as my attorney-in-fact with respect to the exercise of any rights related to a purchase of any such Interests and agree to be bound by the provisions of the Purchase Agreement and the Subscription Documents insofar as I may have any rights in said Subscription Documents or any property or interest subject thereto under the below applicable state community property laws or any similar laws relating to marital property in effect in the state of our residence as of the date of signing of the Purchase Agreement and/or the Subscription Documents.

Print Name	State

5 | Qualified Intermediary Information

I (we) hereby provide the following information pertaining to my (our) Qualified Intermediary for this acquisition. I (we) request and authorize my (our) Qualified Intermediary to furnish the DST any information requested regarding my (our) Section 1031 Exchange.

The following Qualified Intermediary is authorized and instructed to fund all equity due to close the transaction prior to the scheduled closing date:

Company Name		Exchange Coordinator	
Street Address	City	State	ZIP
Email Address		Phone Number	

6 | Distribution Instructions

Complete the following Information to designate where you would like distributions to be sent.

☐	Pay To Brokerage Account	
☐	Fidelity	☐ Charles Schwab
☐		☐ Pershing
☐	RBC	☐ TD Ameritrade
☐		☐ Other
☐	Mail a Check to Investor Street Address	
☐	Electronic Deposit – Select One	
	☐ Checking	☐ Savings
	Name of Financial Institution	
	ABA Routing Number	Account Number

7 | Electronic Delivery Consent (optional)

I (we) authorize the sponsor of the Offering to make available on its website the documents and reports required to be delivered to me and notify me via e-mail when such reports are available in lieu of receiving paper copies.

Authorized Person Signature	Date

8 | Accredited Investor Status

The Investor Represents and Warrants that the Investor is an Accredited Investor. **Please check as appropriate:**

8A For Individuals

- ☐ A natural person with individual net worth (or joint net worth with spouse or spousal equivalent*) in excess of \$1 million. For purposes of this item, "net worth" means the excess of total assets at fair market value, including automobiles and other personal property and property owned by a spouse or spousal equivalent*, but excluding the value of the primary residence of such natural person, over total liabilities. For this purpose, the amount of any mortgage or other indebtedness secured by an Investor's primary residence should not be included as a "liability", except to the extent the fair market value of the residence is less than the amount of such mortgage or other indebtedness.
- ☐ A natural person with individual income (without including any income of the Investor's spouse or spousal equivalent*) in excess of \$200,000, in each of the two (2) most recent years and who reasonably expects to reach the same income level in the current year.
- ☐ A natural person with joint income with his or her spouse or spousal equivalent* in excess of \$300,000, in each of the two (2) most recent years and who reasonably expects to reach the same income level in the current year.
- ☐ The Investor (including all owners in a joint account) holds in good standing either the General Securities Representative license (Series 7), the Private Securities Offerings Representative license (Series 82), the Investment Adviser Representative license (Series 65), and/or any other professional certifications or designations or credentials from an accredited educational institution that the Securities and Exchange Commission has designated under Rule 501(a)(10) under the Securities Act as qualifying an individual for Accredited Investor status.

*A cohabitant occupying a relationship generally equivalent to that of a spouse.

8B For Entities

- ☐ An entity, including a grantor trust, in which all of the equity owners are Accredited Investors (for this purpose, a beneficiary of a trust is not an equity owner, but the grantor of a grantor trust may be an equity owner).
- ☐ A bank as defined in Section 3(a)(2) of the Securities Act, or any savings and loan association or other institution as defined in Section 3(a)(5)(A) of the Securities Act whether acting in its individual or fiduciary capacity.
- ☐ An insurance company as defined in Section 2(a)(13) of the Securities Act.
- ☐ A broker-dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended (the "1934 Act").
- ☐ An investment company registered under the Investment Company Act of 1940, as amended (the "1940 Act").
- ☐ A business development company as defined in Section 2(a)(48) of the 1940 Act.
- ☐ A Small Business Investment Company licensed by the Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958, as amended.
- ☐ A private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, as amended (the "Advisers Act").
- ☐ A corporation, a Massachusetts or similar business trust, a partnership, or a limited liability company, in each case not formed for the specific purpose of acquiring the Interests offered, with total assets in excess of \$5 million.
- ☐ A trust with total assets in excess of \$5 million not formed for the specific purpose of acquiring Interests, whose purchase is directed by a person with such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of an investment in the Interests.
- ☐ A plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions for the benefit of its employees, if the plan has total assets in excess of \$5 million.
- ☐ A Rural Business Investment Company as defined in Section 384A of the Consolidated Farm and Rural Development Act.
- ☐ An investment adviser registered pursuant to Section 203 of the Advisers Act or registered under the laws of any U.S. state.
- ☐ An investment adviser relying on an exemption from registering with the Securities and Exchange Commission under Section 203(l) or (m) of the Advisers Act.
- ☐ An entity, of a type not listed above, not formed for the specific purpose of acquiring the Interests offered, that owns in excess of \$5,000,000 in "investments," as defined in Rule 2a51-1 under the 1940 Act.
- ☐ A "family office" (as defined in Rule 202(a)(11)(G)-1 under the Advisers Act) with assets under management in excess of \$5,000,000, not formed for the specific purpose of acquiring the Interests offered, and whose purchase of the Interests is directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of the purchase of the Interests.
- ☐ A "family client" (as defined in Rule 202(a)(11)(G)-1 under the Advisers Act) of a "family office" meeting the requirements of the immediately preceding category, whose purchase of the Interests is directed by such family office.

9 | Investor Representative Information

Name of Financial Institution		Financial Institution CRD Number	
		or	
Name of Investor Representative(s)		Rep/Advisor Number/Team ID	Rep CRD Number
Office Street Address	City	State	ZIP
Email Address	Phone Number		

10 | Investor Representative Attestation

The undersigned confirms by its signature, on behalf of itself and the Participating Broker/Dealer or Financial Institution listed in Section 9 above, that, in recommending the investor make an investment: (i) it had a reasonable basis to believe the investor is an Accredited Investor, with whom it had a pre-existing substantive relationship; (ii) it did not solicit the investment by means of any form of general solicitation or general advertisement; (iii) to the extent required by applicable law, it is duly licensed and may lawfully sell Interests in the state designated as the investor's legal residence; (iv) unless agreed in writing with the Dealer Manager, it did not solicit the investment or provide for the execution of these Subscription Documents outside of the U.S. and that no foreign securities or other laws are implicated by the transaction contemplated hereby; (v) any information concerning the investor, including the information contained in these Subscription Documents, that are transmitted by the undersigned to the DST are true, correct and complete in all material respects; (vi) the form of ownership selected by the investor is accurate and, if other than individual ownership, has verified that the individual executing on behalf of the investor is properly authorized and identified; (vii) it delivered a copy of the Memorandum and the Property Supplement to the investor prior to or simultaneously with the first recommendation of an investment for the investor; (viii) it has not given any information or any representation concerning this Offering, except as set forth in the Memorandum and the Property Supplement, and any other sales material approved for use by the DST in writing and all appropriate regulatory agencies; and (ix) it has reasonable grounds to believe that the investment is a suitable investment for the investor and that the investor is in a financial position to enable such investor to realize the benefits of such an investment and to suffer any loss that may occur with respect thereto.

The undersigned confirms by its signature, on behalf of itself and the Participating Broker/Dealer or Financial Institution listed in Section 9 above, that: (i) it has full power and authority to provide this attestation and perform the obligations herein; (ii) this attestation constitutes a valid and binding obligation, enforceable against the Participating Broker/Dealer or Financial Institution listed in Section 9 above in accordance with its terms; (iii) that it is not subject to any of the "Bad Actor" disqualifications under the Securities Act, and (iv) it and the Participating Broker/Dealer or Financial Institution listed in Section 9 above are in compliance with all the requirements applicable to its activities pursuant to these Subscription Documents, the Memorandum, and the Property Supplement imposed upon it under federal and state laws, rules and regulations, all applicable rules of the Financial Industry Regulatory Authority, Inc. ("FINRA"), including with respect to "know your customer" and suitability determinations, as required by its relationship with the investor, the privacy standards and requirements of state and federal laws, including the Gramm-Leach-Bliley Act of 1999, and the laws governing money laundering abatement and anti-terrorist financing efforts, including the applicable rules of the SEC and FINRA, the Bank Secrecy Act, as amended, the USA Patriot Act of 2001, and regulations administered by the Office of Foreign Asset Control at the Department of the Treasury, in each case as required by its relationship with the investor.

The Financial Intermediary agrees by its signature, on behalf of itself and the Participating Broker/Dealer or Financial Institution listed in Section 9 above, that it is not entitled to receive any of the Sales Commission or ongoing DST Investor Servicing Fees unless it has entered into and maintains an effective agreement with IREX and/or its dealer-manager to sell such Interests in the DST in exchange for a sales commission and to provide investor and account maintenance services with respect to such Interests and to receive DST Investor Servicing Fees in exchange therefor.

The Financial Intermediary further agrees by its signature, on behalf of itself and the Participating Broker/Dealer or Financial Institution listed in Section 9 above, that the DST, Invesco DST Manager LLC, and Invesco Distributors, Inc. are each intended third-party beneficiaries of this attestation with the authority to directly seek redress for the violation of any of the agreements and representations contained herein.

These Subscription Documents and all rights hereunder shall be governed by, and interpreted in accordance with, the laws of the state of Delaware.

Investor Representative Signature	Date
Broker/Dealer Authorized Persons Signature (if applicable)	Date

11 | Important Information Rights, Certifications and Authorizations

Substitute IRS Form W-9 Certification:

Under penalties of perjury, I certify that:

1. The taxpayer identification number shown on these Subscription Documents 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 in IRS Form W-9 instructions), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is/are correct.

Certification Instructions: You must cross out certification 2 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. The IRS does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

By signing below, you:

- Acknowledge that you do not expect to be able to sell your Interests regardless of how the DST, Operating Partnership, IREX and/or their affiliates perform.
- Represent and warrant that you are an Accredited Investor.
- Represent and warrant that you have received and read the Memorandum and the Property Supplement.
- Represent and warrant that you have received, read and understood, and agree to each and every term of these Subscription Documents including any accompanying supplement.
- Represent, warrant and affirm all of the statements, selections, certifications, representations, warranties, agreements, acknowledgments and undertakings set forth in these Subscription Documents, including without limitation those set forth in Sections 1-9.
- Represent, warrant and affirm that you have received and reviewed, with assistance from such legal, tax, investment, and other advisors and skilled persons as you have deemed appropriate, that certain First Amended and Restated Trust Agreement of the DST, April 2, 2026 (the "**Trust Agreement**"), as may be further amended or supplemented from time to time, and hereby covenant and agree to be bound by the Trust Agreement.
- Acknowledge and accept that the Operating Partnership has an option to acquire some or all of your Interests in the DST or a subsidiary trust (the "**FMV Option**") in the manner more fully described in the Memorandum and the Property Supplement. The FMV Option generally provides the Operating Partnership a right, but not the obligation, to acquire the Interests representing ownership in one or more properties held by the applicable trust from the investors, in exchange for "Operating Partnership units" of a class currently issued (or that may be issued in the future) by the Operating Partnership (all such Operating Partnership Units, collectively, the "**OP Units**") or for cash, in the Operating Partnership's sole discretion. Based on a particular class of OP Units that may be received by investors pursuant to the exercise of the FMV Option, different investors may receive different classes of OP Units that bear different fees, as provided in the relevant participating selling agreement. The Operating Partnership will determine whether or not to exercise the FMV Option taking into account only the best interests of the Operating Partnership and not the investors. There is no assurance that the Operating Partnership will exercise its FMV Option and, therefore, investors may be required to hold their Interests until an ultimate sale of the underlying real estate by the DST and/or its subsidiaries.
- Acknowledge and accept that your investment risks will change if you hold OP Units. The fact that the Interests are subject to the FMV Option could adversely affect the amount a third party would be willing to pay for an Interest or the underlying real estate. The FMV Option is exercisable at a price determined by reference to a third-party appraisal process applied to the underlying real estate, and there are no guarantees that the future fair market value of the Interests will be equal to or greater than the price paid for the Interests.
- Acknowledge and accept that legal counsel, Baker & McKenzie LLP represents the DST, the Sponsor, the Manager, the Master Tenant, the Depositor, and their affiliates and does not represent, and shall not be deemed under the applicable codes of professional responsibility to have represented or to be representing you.
- Represent that the e-mail to be used for account communications is listed in Section 3 of the Subscription Documents and if your e-mail address changes, you must provide SS&C with the new address by calling 1-833-834-4924.
- Acknowledge and understand that you will not have any voting rights with respect to the management or operations of the DST or in connection with the sale of the properties owned by the DST.
- Acknowledge and understand that there are various instances of conflicts of interests among IREX, the DST, the Master Tenant, the Manager, and their affiliates.
- Acknowledge and understand that an investment in the DST is illiquid and appropriate only as a long-term investment.
- Acknowledge and understand that there is no public trading market for the Interests.
- Acknowledge and understand the material tax risks, including treatment of the Interests for purposes of Code Section 1031 or Code Section 1033, as applicable, and the use of exchange funds to pay acquisition costs, which may result in taxable boot.
- Acknowledge that you may not have access to the money you invest for an indefinite period of time.
- Acknowledge that because you will be unable to sell your Interests, you will be unable to reduce your exposure in any market downturn.
- Acknowledge and agree that an investment in our Interests is not suitable for you if you need access to the money you invest.

- Acknowledge that Congressional and IRS rules and regulations related to taxation are subject to change, and future changes (which may or may not have retroactive effect) may have unforeseen impacts on your investment in the DST.
- Acknowledge and agree that your execution of these signature pages will constitute for all purposes your execution of the Subscription Documents.
- Represent and warrant that these signature pages (including the Subscription Documents) submitted by or on behalf of you, pursuant to a valid power of attorney, constitute or will constitute your valid, binding and enforceable agreement.

Each investor must sign below

Investor or Authorized Person Signature

Date

Joint Investor or Authorized Person Signature

Date

Spouse Signature (if applicable)

Date

12 | Purchase Agreement

PURCHASE AGREEMENT OF IREX V DIVERSIFIED PORTFOLIO DST**Up to \$97,634,409 of Interests**

THIS PURCHASE AGREEMENT (the “**Purchase Agreement**”) is made by and between IREX V Diversified Portfolio DST, a Delaware statutory trust (the “**Seller**”) and the undersigned, with reference to the facts set forth below.

RECITALS

- A. The Seller directly or indirectly owns the real estate and improvements located at (i) 1942 East Seventh Street, Charlotte, North Carolina 28204 (the “**Elizabeth on Seventh Property**”) and (ii) 425 Distribution Drive, West Columbia, South Carolina 29170 (the “**Gateway One Property**”) together with the Elizabeth on Seventh Property, collectively, the “**Property**”), and each more particularly described on **Exhibit A** attached hereto.
- B. The Seller is offering (the “**Offering**”) to sell to certain qualified, accredited investors pursuant to that certain confidential Delaware statutory trust program memorandum, dated April 24, 2026 and the separate supplement to such Private Placement Memorandum, dated April 24, 2026 (together with any amendments and/or supplements thereto, the “**Memorandum**”), beneficial ownership interests in the Seller (the “**Interests**”). Capitalized terms not defined herein shall have the same meanings as in the Memorandum.
- C. The Seller desires to sell, and the undersigned desires to buy the Interests on the terms and conditions set forth in the Memorandum.

NOW, THEREFORE, in consideration of the mutual agreements set forth herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as set forth below.

1. **Purchase of Interests.** The undersigned, intending to be legally bound, hereby irrevocably offers to purchase \$ _____ worth of Interests in the Seller. The Interests are being purchased pursuant to the terms and conditions of the Memorandum, receipt of which is hereby acknowledged.
2. **Full Payment.** To maintain the undersigned’s reservation to purchase an Interest, within fifteen (15) days of the undersigned’s receipt of a closing statement and funding instructions, the undersigned must fund 100% of the amount required to close per the closing statement. Seller and/or its agents shall contact the undersigned to schedule a closing date only upon receipt of 100% of the amount required to close. Failure to act within fifteen (15) business days of such Seller’s approval and the undersigned’s receipt of a closing statement and funding instructions shall relinquish the undersigned’s reservation. Reservations are made on a “first come, first served” basis. The undersigned understands and agrees that the Seller, in its sole discretion, reserves the right to accept or reject this or any other offer to purchase the Interests in whole or in part at any time prior to closing. If this offer is rejected by the Seller, or, if prior to closing, the Seller terminates the Offering for any reason or no reason, the full amount to close, as applicable, will be refunded. The undersigned acknowledges and agrees that the undersigned has sought advice of the undersigned’s own counsel, financial professionals, and advisors regarding an investment in the Seller, including, to the extent applicable, with respect to the tax aspects of a tax-deferred exchange under Section 1031 or Section 1033 of the Code.
3. **Amount and Method of Payment.** Payment for the Interests purchased hereunder is to be made by wiring the funds from the qualified escrow account to the Seller’s account, as separately directed. The minimum amount of Interests that a prospective Investor will be required to purchase is \$250,000, unless the Seller waives such requirement. If the purchase of an Interest is part of a Section 1031 tax-deferred exchange, payment must be coordinated through the undersigned’s qualified intermediary who holds the undersigned’s exchange proceeds from the relinquished property.

4. Acceptance and Closing of Purchase. Upon receipt of 100% of the amount required to close, the Seller will schedule a closing date. Following closing, the Seller will provide the undersigned confirmation of closing and a fully executed document package. The undersigned understands and agrees that the Seller, in its sole discretion, reserves the right to accept or reject this or any other offer to purchase Interests in whole or in part. If the Seller does not accept a Purchase Agreement within thirty (30) days of its submission, then it shall be deemed rejected. In such an event, the Seller will promptly return the full amount of funds received by the Seller from the undersigned pursuant to this Purchase Agreement.

5. Representations and Warranties of the Seller. The Seller hereby acknowledges, represents and warrants that:

- (a) Status. The Seller is a validly formed and existing statutory trust under the laws of the State of Delaware.
- (b) Issuance. When issued, authenticated and delivered by the Seller and paid for by the undersigned pursuant to the provisions of this Purchase Agreement and of the Seller's trust agreement, as amended or restated from time to time (the "**Trust Agreement**"), the undersigned's Interests will be duly and validly issued and outstanding and entitled to the benefits provided by the Trust Agreement, except as such enforceability may be limited by the effect of (i) bankruptcy, insolvency, reorganization, receivership, moratorium or other similar laws affecting the enforcement of the rights of creditors generally, and (ii) general principles of equity, whether enforcement is sought in a proceeding in equity or at law.

6. Representations and Warranties of the Undersigned. The undersigned hereby acknowledges, represents and warrants that:

- (a) The Interests offered by the Memorandum have not been registered under the Securities Act of 1933, as amended (the "**Securities Act**"), or under the laws of any state, and are being offered and sold in reliance on exemptions from the provisions of the Securities Act and applicable state law. The Interests have not been approved or disapproved by the U.S. Securities and Exchange Commission, any state securities commission or any other regulatory authority, nor have any of the foregoing authorities passed upon, or endorsed the merits of, the Offering or the accuracy or adequacy of the Memorandum. The undersigned hereby further acknowledges, represents and warrants that:
 - (i) the undersigned has received the Memorandum, Trust Agreements (as defined in the Memorandum), and Master Lease Agreement (as defined in the Memorandum), has carefully reviewed them and understands the information contained therein and information otherwise provided in writing by the Seller relating to this investment;
 - (ii) the undersigned understands that there is no public market for the Interests, nor is any such market likely to develop in the foreseeable future, and acknowledges that the Interests are being offered and sold pursuant to exemptions from the registration provisions of federal and state securities laws, and further understands that the Interests are subject to restrictions on transfer, including but not limited to, such transfer restrictions as set forth in the Trust Agreements;
 - (iii) the undersigned acknowledges that all documents, records and books pertaining to this investment (including, without limitation, the Memorandum) have been made available for inspection to the undersigned or the undersigned's agents or advisors;
 - (iv) the undersigned acknowledges that the undersigned has been provided and reviewed Invesco's Privacy Policy, and agrees not to disclose to any person other than the undersigned's advisors, and will keep strictly confidential the existence of, any and all information contained herein and in the Memorandum, and such other related offering materials;

(v) the undersigned, either directly or through advisors, has had a reasonable opportunity to ask questions of and receive information and answers from a person or persons acting on behalf of the Seller concerning the Offering and, as the undersigned may deem necessary, to verify the information contained in the Memorandum, and all questions have been answered and all such information has been provided to the full satisfaction of the undersigned;

(vi) no oral or written representations have been made or oral or written information furnished to the undersigned or his, her, or its advisor(s) in connection with the Offering that were in any way inconsistent with the information stated in the Memorandum;

(vii) the undersigned is not purchasing the Interests as a result of or subsequent to, any advertisement, article, notice or other communication published in any newspaper, magazine or similar media or broadcast over television or radio, or presented at any seminar or meeting;

(viii) the undersigned acknowledges that the undersigned has completed a certain investor questionnaire, and that the information therein is complete and accurate as of the date thereof and is hereby affirmed as of the date hereof; the undersigned represents and warrants that (i) as of the date hereof, the undersigned qualifies as an "accredited investor" as defined in Rule 501(a) of Regulation D under the Securities Act, (ii) the undersigned agrees to furnish any additional information, representations, and/or forms as requested by the Seller or any of its affiliates to assure compliance with applicable U.S. federal and state securities laws in connection with the undersigned's suitability to the purchase and sale of the Interests, and (iii) any information that has been furnished or that will be furnished by or on behalf of the undersigned to evidence the undersigned's status as an accredited investor is accurate and complete and does not contain any misrepresentation or material omission;

(ix) If the undersigned is an entity, the undersigned: (i) is duly formed and validly existing and in good standing under the laws of its jurisdiction or organization; (ii) had the power and authority to enter into this Purchase Agreement, and each other document required to be executed and delivered by the undersigned in connection with the purchase and sale of the Interests, and to perform its obligations thereunder and consummate the transactions contemplated thereby; and (iii) the person signing this Purchase Agreement on behalf of the undersigned has been duly authorized to execute and deliver this Purchase Agreement and each other document required to be executed and delivered by the undersigned in connection with this purchase and sale of the Interests;

(x) the undersigned is not purchasing the Interests on behalf of any tax-exempt entity, including but not limited to any qualified employee pension or profit sharing trust, any individual retirement account, Simple 401k plan, annuity or charitable remainder trust;

(xi) the undersigned's overall commitment to investments that are not readily marketable is not disproportionate to the undersigned's net worth and the undersigned's investment in the Interests will not cause the overall commitment to become disproportionate to the undersigned's net worth;

(xii) the undersigned has reached the age of majority, has adequate net worth and means of providing for the undersigned's current needs and personal contingencies, is able to bear the substantial economic risks of an investment in the Interests for an indefinite period of time, has no need for liquidity in such investment and, at the present time, could afford a complete loss of such investment;

(xiii) the undersigned is (i) a sophisticated investor with such requisite knowledge and experience in business and financial matters so as to enable the undersigned to evaluate the merits and risks of investment in the Seller, and to make an informed decision, (ii) able to bear the economic risk and lack of liquidity of an investment in the Seller, and (iii) able to bear the risk of loss of the undersigned's entire investment in the Seller; the undersigned has adequate net worth and means of providing for the undersigned's current needs and personal contingencies to sustain a complete loss of the undersigned's investment in the Seller; the undersigned's investment in the purchase and sale of the Interests will not

cause the undersigned's overall commitment to investments which are not readily marketable to become excessive;

(xiv) the undersigned is acquiring the Interests solely for his, her, or its own account as principal, for investment purposes only and not with a view to the resale or distribution thereof in whole or in part, and no other person has a direct or beneficial interest in the Interests purchased by the undersigned;

(xv) the undersigned will not sell or otherwise transfer his, her, or its Interests without complying with all applicable laws, including federal and state securities laws, and fully understands and agrees that he, she, or it must bear the economic risk of his, her, or its purchase for an indefinite period of time because, among other reasons, the Interests may not be readily transferable;

(xvi) the undersigned's assets have not been the subject of any proceeding under any matter relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors ("**Creditor Rights Laws**") during the ten (10) years prior to the date hereof, nor has the undersigned sought the protection of any Creditors Rights Laws during the ten (10) years prior to the date hereof. The foregoing representation with regard to this paragraph also are applicable to the undersigned's affiliates which the undersigned owns or controls, including any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association and any fiduciary acting in such capacity on behalf of any of the foregoing, and further including any such entity in which the undersigned or its affiliate is an officer or director; and

(xvii) the undersigned confirms that neither the undersigned, nor any of the undersigned's affiliates, nor, to the undersigned's knowledge, any of their respective partners, members, shareholders, or other equity owners, or to the undersigned's knowledge, any of their respective, officers, directors, managers, representatives or agents, as applicable, is, nor will become, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the OFAC of the Department of the Treasury (including those named on OFAC's Specifically Designed and Blocked Persons List) or under any statute, executive order including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not assign or otherwise transfer this Purchase Agreement to, contract with or otherwise engage in any dealings or transactions or be otherwise associated with such persons or entities;

(xviii) if the undersigned is purchasing 20% or more of the Interests, the undersigned is not a "Bad Actor" as defined in Rule 506(d) of Regulation D under the Securities Act;

(b) The undersigned recognizes that the purchase of the Interests involves a number of significant risks and other factors relating to the structure and objectives of the Seller as described in the Memorandum under the heading "Risk Factors" and that there can be no assurance that the Seller will achieve its objectives. In addition, the undersigned acknowledges that:

(i) no federal or state agency has passed upon the adequacy of the information presented to the undersigned or made any finding or determination as to the fairness of this investment; and

(ii) there is no established market for the Interests and a public market for the Interests may never develop.

(c) The undersigned understands that the Seller has not obtained a specific "private letter ruling" from the Internal Revenue Service ("**IRS**") addressing the treatment of the Interests in this Offering for income tax purposes, including but not limited to whether an Interest is "of like kind" to real estate for purposes of Section 1031 or is "similar or related in service or use" to involuntarily converted property of the undersigned for purposes of Internal Revenue Code section 1033 ("**Section 1033**"). In addition, the undersigned understands that the tax consequences of an investment in the Interests, especially the qualification of the transaction under Section 1031 or Section 1033

of the Code and the related rules, are complex and vary with the facts and circumstances of each individual. Therefore, the undersigned represents and warrants that the undersigned: (1) has independently obtained advice from legal counsel and/or accountants about a tax-deferred exchange under Section 1031 or a conversion under Section 1033 and applicable state and local laws, including, without limitation, whether the acquisition of an Interest may qualify as part of a tax-deferred exchange or involuntary conversion, and the undersigned is relying on such advice; (2) understands that the Seller has not obtained a ruling from the IRS addressing the treatment of the Interests in this Offering for income tax purposes, including but not limited to whether an Interest is "of like kind" to real estate for purposes of Section 1031 or is "similar or related in service or use" to involuntarily converted property of the undersigned for purposes of Section 1033; (3) understands that the tax consequences of an investment in an Interest, especially the treatment of the transaction under Section 1031 and the related Section 1031 exchange rules, or under Section 1033 and its underlying rules, are complex and vary with the facts and circumstances of each individual purchaser or investor; and (4) understands that the opinion of Baker & McKenzie LLP, as special tax counsel to the Seller, is only Baker & McKenzie LLP's view of the anticipated federal income tax treatment, and there is no guarantee that the IRS will agree with such opinion.

- (d) If the undersigned is purchasing the Interests in a representative or fiduciary capacity, e.g., serving as a qualified intermediary, the representations and warranties contained herein (and in any other written statement or document delivered to the Seller in connection herewith) shall be deemed to have been made on behalf of the person or persons for whom the Interests are being purchased.
- (e) All information furnished to the Seller by the undersigned is correct and complete as of the date of this Purchase Agreement, and the undersigned will immediately furnish revised or corrected information to the Seller if there should be any material change in this information prior to the Seller completing the Offering.
- (f) Within five (5) days after receipt of a request from the Seller, the undersigned hereby agrees to provide such information and to execute and deliver such documents as may be reasonably necessary (i) to comply with any and all laws and ordinances to which the Seller is subject, or (ii) that may be reasonably requested by the Seller for administrative and business convenience. The undersigned explicitly agrees to provide information related to tax attributes of the undersigned with respect to its investment in the Interests and any related tax-deferred exchange, including, without limitation, tax basis information, depreciation figures and methods, and IRS Form 8824. The undersigned further agrees to update any previously provided information described in this paragraph within five (5) days after receipt of a request from the Seller to update such information at any future time.
- (g) The undersigned has not distributed the Memorandum to anyone other than his, her, or its advisors, if any, and no one other than the undersigned and his, her, or its advisors, if any, has used the Memorandum.
- (h) The foregoing representations, warranties and agreements, together with all other representations and warranties made or given by the undersigned to the Seller in any other written statement or document delivered in connection with the Offering shall be true and correct in all respects on and as of the date the purchase is accepted as if made on that date. If more than one person is signing this Purchase Agreement, each representation, warranty and undertaking herein shall be the joint and several representation, warranty and undertaking of each such person.
- (i) The undersigned acknowledges and agrees that the Interests are subject to the FMV Option, as described in the Trust Agreement, and the Memorandum.

- (j) The undersigned acknowledges that prior to closing, the Seller may terminate the Offering for any reason or no reason, and the full amount to close or non-refundable deposit paid, if paid and as applicable, will be refunded.

7. Additional Representations and Warranties – Section 1031 Exchanges. The following additional representations and warranties apply only to those investors purchasing Interests as part of a Section 1031 tax-deferred exchange.

- (a) The undersigned hereby acknowledges, represents and warrants that the undersigned's rights under this Purchase Agreement may be assigned to his, her, or its qualified intermediary (the "**Qualified Intermediary**") for the purpose of completing a Section 1031 exchange.
- (b) The Seller hereby acknowledges, represents and warrants (as applicable) that:
 - (i) It is the intent of the undersigned to effect a Section 1031 tax-deferred exchange, which will not delay the closing or cause additional expense to the Seller.
 - (ii) The Seller will cooperate with the undersigned and his, her, or its Qualified Intermediary in a manner necessary to complete the Section 1031 tax-deferred exchange.

8. Additional Information. The undersigned hereby acknowledges and agrees that the Seller may make such further inquiry and obtain such additional information as it may deem appropriate with regard to the suitability of the undersigned.

9. Authorization. The undersigned releases to the Seller and those third-party vendors retained to conduct credit and background evaluations (the "**Vendors**") in accordance with the questions contained in his, her, or its investor questionnaire any information regarding the undersigned's employment status, bank account records, mortgage or other current or prior credit, collection accounts, rental history, state and federal tax liens, state and federal crimes, state and federal civil litigation and bankruptcy, and state and county UCC (Uniform Commercial Code) searches. As part of such authorization, the undersigned hereby authorizes the Seller's release of such information to the Vendors. This information is for the confidential use of the Seller and the Vendors only.

10. Indemnification. The undersigned agrees to indemnify and hold harmless the Seller and the Seller's Signatory Trustee and their respective officers, directors, employees, beneficiaries, trustees, and agents, including transfer agent, (the "**Indemnified Parties**") against any and all loss, liability, claim, damage and expense whatsoever (including reasonable attorneys' fees) arising out of or based upon any false representation or warranty or breach or failure by the undersigned to comply with any covenant or agreement made by the undersigned herein, or in any other document furnished by the undersigned to any of the foregoing in connection with this transaction. This indemnification includes, but is not limited to, any damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees) incurred by the Indemnified Parties in investigating, preparing or defending against any alleged violation of federal or state securities laws which is based upon or related to any untruth or inaccuracy of any of the representations, warranties or agreements contained herein or in any other documents the undersigned has furnished to any of the foregoing in connection with this transaction.

11. Irrevocability; Binding Effect. The undersigned hereby acknowledges and agrees that, except as provided under applicable state law and Section 3 of the Purchase Agreement, the purchase hereunder is irrevocable and may not be canceled, terminated or revoked and that this Purchase Agreement shall survive the death or disability of the undersigned and shall be binding upon and inure to the benefit of the parties and their heirs, executors, administrators, successors, legal representatives and assigns.

12. Modifications. Neither this Purchase Agreement nor any provision hereof shall be waived, modified, discharged or terminated except by an instrument in writing signed by the party against whom any such waiver, modification, discharge or termination is sought.

13. Notices; Consent to Electronic Delivery. Any notice, demand or other communication that any party hereto may be required, or may elect, or give to any other party hereunder shall be sufficiently given if: (1) deposited,

postage prepaid, in a United States mailbox, stamped registered or certified mail, return receipt requested, or with an established and reputable overnight delivery service, addressed to IREX V Diversified Portfolio DST, 2300 N Field Street, Suite 1200, Dallas, Texas 75201, Attn: Investor Relations, or to the undersigned investor at the address set forth on the signature page of his, her, or its investor questionnaire or such other address as the parties may agree; or (2) delivered personally at such address. The undersigned consents to the delivery by the Seller or its agents of such documents, as well as supplements and revisions to the Memorandum, and other materials related to the Seller or its affiliates by e-mail to the undersigned's e-mail address as set forth in his, her, or its investor questionnaire (or as otherwise notified to the Seller by the undersigned from time to time) or by posting on a password protected website to which the undersigned has access. Should the undersigned wish not to receive such documents electronically, it should so elect by notifying the Seller in writing.

14. Counterparts; Signatures. This Purchase Agreement, the undersigned's investor questionnaire and supporting documents may be executed and delivered (including by facsimile transmission or portable document format (PDF)) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same Purchase Agreement, investor questionnaire or other document, as applicable.

15. Entire Agreement. This Purchase Agreement contains the entire agreement of the parties with respect to the subject matter hereof and there are no representations, covenants or other agreements except as stated or referred to herein. The undersigned acknowledges that it participated in, or had the meaningful opportunity to participate in, the negotiations and drafting of this Purchase Agreement. In the event an ambiguity or question of intent or interpretation arises, the undersigned agrees that this Purchase Agreement shall be construed to be the product of meaningful negotiations between the undersigned and the Seller, and no presumption or burden of proof shall arise favoring or disfavoring either one of them by virtue of the authorship of any of the provisions of this Purchase Agreement.

16. Severability. Each provision of this Purchase Agreement is intended to be severable from every other provision, and the invalidity or illegality of any portion hereof shall not affect the validity or legality of the remainder hereof.

17. Assignability. This Purchase Agreement is not transferable or assignable by the undersigned except to a qualified intermediary in the case of a Section 1031 tax-deferred exchange.

18. Applicable Law. This Purchase Agreement shall be governed by and construed in accordance with the laws of the State of Delaware as applied to residents of that state executing contracts wholly to be performed in that state.

19. Choice of Jurisdiction. The undersigned agrees that any action or proceeding arising, directly, indirectly, or otherwise, in connection with, out of, or from this Purchase Agreement, and breach thereof, or any transaction covered hereby shall be resolved, whether by arbitration or otherwise, within Dallas County, Texas. The parties further agree that any such relief whatsoever in connection with this Purchase Agreement shall be commenced exclusively in the United States federal or state courts, or if possible before an arbitral body, located within Dallas County, Texas.

20. Reimbursement. If any action or other proceeding, other than arbitration, is brought to enforce this Purchase Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Purchase Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees and other costs incurred in the action or proceeding in addition to any other relief to which they may be entitled.

21. Certificates of Non-Foreign Status. Under penalties of perjury, the undersigned declares that, to the best of his, her, or its knowledge and belief the following statements are true, correct and complete: (1) that the undersigned is not a foreign person for purposes of U.S. income taxation (i.e., he or she is not a nonresident alien, nor executing this document as an officer of a foreign corporation, as a partner in a foreign partnership, or as a fiduciary of a foreign employee benefit plan, foreign trust or foreign estate); (2) that the following information

contained elsewhere in the Purchase Agreement or in the undersigned's investor questionnaire is true, correct and complete: the U.S. taxpayer identification number (i.e., social security number) and the home address; and (3) that the undersigned agrees to inform the Seller promptly if the undersigned becomes a nonresident alien (in the case of an individual) or other foreign person (in case of an entity) during the three (3) years immediately following the date hereof.

22. Certification regarding Securities Laws. By signing below, the undersigned certifies that the undersigned has read and understands the following additional considerations: The Interests have not been approved or disapproved by the U.S. Securities and Exchange Commission, or any state securities commission or other regulatory authority, nor have any of the foregoing authorities passed upon or endorsed the merits of this Offering or the accuracy or adequacy of the Memorandum. Any representation to the contrary is unlawful. The Interests offered hereby are subject to investment risk, including the possible loss of principal.



Invesco Real Estate Exchange LLC
Closing Statement

**Class 1 Beneficial Interest in
IREX V Diversified Portfolio DST**

CLOSING DATE:

SELLER: **IREX V Diversified Portfolio DST**
2300 N Field Street, Suite 1200
Dallas, TX 75201

PURCHASER:
As Qualified Intermediary for:

Investor Name:
Street Address:
City, State Zip:

PROPERTY ADDRESS:

1942 East Seventh Street, Charlotte, North Carolina 28204
 425 Distribution Drive, West Columbia, South Carolina 29170

Interest in IREX V Diversified Portfolio DST being Conveyed: Class I Beneficial Interest

BUYER FUNDING SUMMARY

Purchaser's Exchange Proceeds (net of Qualified Intermediary fees)

Plus: Cash Investment

Gross Equity Investment

Less: Upfront Fees & Reimbursements

Net Equity Investment

Offering Net Equity Investment

Class I Beneficial Interest Conveyed

Class I Beneficial Units Conveyed

SELLER FUNDING SUMMARY

Gross Equity Investment

Sales Commission

Dealer Manager Fee

Placement Fee

Amount to Invesco Distributors, Inc.

Organization & Offering Expenses

Other Closing Costs

Amount to Invesco Real Estate Exchange LLC

Net Proceeds to Seller (Net Equity Investment)

QUALIFIED INTERMEDIARY

Purchaser acknowledges this closing statement solely in its capacity as Qualified Intermediary pursuant to its exchange agreement for the benefit of Buyer. Purchaser is not responsible for the accuracy of this closing statement.

Signature:

Name: , Exchange Coordinator
(on behalf of Qualified Intermediary)

WIRING INSTRUCTIONS

Bank Name: Bank of America, N.A.
Bank Address: 222 Broadway New York, NY 10038
Account Name: Invesco Advisers, Inc AAF
IREX V Diversified Portfolio DST
Account Number: 488117595680
Routing Number: 0260009593

Signatures

I (we) acknowledge and agree to all of the representations and warranties contained in this Purchase Agreement.

SELLER**Execution Date****IREX V Diversified Portfolio DST**, a Delaware Statutory Trust

By: Invesco DST Manager LLC
Its Manager and Signatory Trustee

Signature

Name

BUYER**Execution Date****If a natural person:**

Signature

Name

Joint Investor Signature

Joint Investor Name

If not a natural person:

Name of Trust/Entity

Signature

Name

Signature

Name

Signature

Name

Signature

Name

Amount Accepted: \$

Exhibit A to Purchase Agreement | Legal Description of the Property**Elizabeth on Seventh Property****FEE PARCEL:**

BEING ALL OF THAT NEWLY COMBINED PARCEL AREA: 1.68 ACRES AS SHOWN ON PLAT ENTITLED "RECOMBINATION PLAT OF 1924, 1926, 1936, 1942, 1950 AND 1958 EAST 7TH STREET" RECORDED IN MAP BOOK 61 AT PAGE 498, IN THE OFFICE OF THE REGISTER OF DEEDS OF MECKLENBURG COUNTY, NORTH CAROLINA.

EASEMENT PARCEL:

TOGETHER WITH THE NO-BUILD EASEMENTS CONTAINED IN THAT CERTAIN TEMPORARY CONSTRUCTION EASEMENTS AND NEGATIVE (NO BUILD) EASEMENT AGREEMENT RECORDED IN BOOK 34827 AT PAGE 513, IN THE OFFICE OF THE REGISTER OF DEEDS OF MECKLENBURG COUNTY, NORTH CAROLINA.

Gateway One Property**FEE PARCEL:**

ALL THAT CERTAIN PIECE, PARCEL, LOT OR TRACT OF LAND, WITH ANY IMPROVEMENTS THEREON, SITUATE, LYING AND BEING IN THE COUNTY OF LEXINGTON, STATE OF SOUTH CAROLINA, AND BEING SHOWN AND DESIGNATED AS LOT 1 CONTAINING APPROXIMATELY 14.32 ACRES, ON THAT CERTAIN BONDED SUBDIVISION PLAT PREPARED FOR 803 INDUSTRIAL PARK DATED NOVEMBER 3, 2022, AND RECORDED ON DECEMBER 21, 2022 IN THE OFFICE OF THE REGISTER OF DEEDS FOR LEXINGTON COUNTY, SC IN BOOK 21039 AT PAGE 1500; SAID PARCELS HAVING SUCH BOUNDARIES AND MEASUREMENTS AS SHOWN ON SAID PLAT.

EASEMENT PARCELS:

TOGETHER WITH EASEMENTS FOR ACCESS AND STORM DRAINAGE CREATED IN THAT CERTAIN ACCESS AND UTILITY EASEMENT AGREEMENT BY AND BETWEEN RICHLAND-LEXINGTON AIRPORT DISTRICT AND 803 PARK, LLC, DATED FEBRUARY 8, 2022 AND RECORDED FEBRUARY 8, 2022 IN BOOK 20991, PAGE 5309, LEXINGTON COUNTY REGISTER OF DEEDS.

TOGETHER WITH EASEMENTS ESTABLISHED IN THAT CERTAIN DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS BY 803 PARK, LLC, DATED DECEMBER 20, 2022 AND RECORDED DECEMBER 21, 2022 IN THE LEXINGTON COUNTY REGISTER OF DEEDS IN BOOK 21039, PAGE 1501.

BEING THE SAME PROPERTY CONVEYED TO GATEWAY 1, LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY, BY VIRTUE OF LIMITED WARRANTY DEED FROM 803 PARK, LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY, DATED AND RECORDED AUGUST 25, 2023, IN THE OFFICE OF THE REGISTER OF DEEDS FOR LEXINGTON COUNTY, SOUTH CAROLINA, IN BOOK 21071 AT PAGE 4657.

Signature Page to the Trust Agreement of IREX V Diversified Portfolio DST

ALL AUTHORIZED PERSONS MUST SIGN THIS PAGE

- ☐ **Trust** – If purchasing as a Trust, the investor must submit a completed Trust Certificate (Appendix A).
- ☐ **Corporation** – If purchasing as a corporation, the investor must submit the following: (1) a completed Incumbency Certificate (Appendix B); and (2) a completed Corporate Resolution or Officer's Certificate (Appendix C or Appendix D).
- ☐ **Partnership** – If purchasing as a partnership, the investor must submit a completed Partnership Resolution (Appendix E).
- ☐ **Limited Liability Company** – If purchasing as a limited liability company, the investor must submit a completed LLC Resolution (Appendix F).

The undersigned has received and reviewed, with assistance from such legal, tax, investment, and other advisors and skilled persons as the undersigned has deemed appropriate, that certain First Amended and Restated Trust Agreement of IREX V Diversified Portfolio DST, dated April 2, 2026 (the "**Trust Agreement**"), as may be further amended or supplemented from time to time, and hereby covenants and agrees to be bound by the Trust Agreement.

ON BEHALF OF OR BY INDIVIDUAL INVESTOR(S):

Signature I Investor #1

Print Name

Signature Investor #3

Print Name

Signature Investor #2

Print Name

Signature Investor #4

Print Name

ON BEHALF OF OR BY OTHER ENTITY (trust, corporation, partnership, limited liability company):

NAME OF TRUST/ENTITY:

Signature of Trustee/Authorized Signatory

Print Name / Title

Signature of Trustee/Authorized Signatory

Print Name / Title

Signature of Trustee/Authorized Signatory

Print Name / Title

Signature of Trustee/Authorized Signatory

Print Name / Title

APPENDIX A – TRUST CERTIFICATE*TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A TRUST*

The title of the Trust to which this Certificate applies is:

The date of the Trust Agreement is:

The date of the last amendment to the Trust Agreement (if any) is:

The grantor(s) or testator(s) of the Trust is/are:

The Seller has the authority to accept orders and other instructions relative to the Trust account from designated trustees, who are:

Trustee Name (please print)

Date of Birth

Trustee Name (please print)

Date of Birth

Trustee Name (please print)

Date of Birth

Trustee Name (please print)

Date of Birth

Please select one of the following three options:

- ☐ The trustee(s) listed above may act independently as provided in the Trust Agreement, and the execution by any one trustee can bind the Trust.
- ☐ The trustees listed above may act as a majority as provided in the Trust Agreement.
- ☐ The trustee(s) listed above must act unanimously as provided in the Trust Agreement, and the execution or authorization of all of the trustees is required to bind the Trust.

The undersigned, constituting all of the trustee(s) of the Trust, hereby certify as follows:

- a) A true and correct copy of the Trust Agreement is attached hereto and that, as of the date hereof, the Trust Agreement has not been amended (except as to any attached amendments) or revoked and is still in full force and effect.
- b) As the trustee(s) of the Trust, we have determined that the investment in, and purchase of Interests in, IREX V Diversified Portfolio DST is authorized by the terms of the Trust Agreement and is of the benefit to the Trust, and we have determined to make such investment on behalf of the Trust.
- c) We, the trustees, jointly and severally, indemnify IREX V Diversified Portfolio DST and hold IREX V Diversified Portfolio DST harmless from and against any liability relating to effecting any orders, transactions, instructions or directions given by any individuals listed in this Certificate.

All trustees must sign and date below.

Trustee Signature

Date

Trustee Signature

Date

Trustee Signature

Date

Trustee Signature

Date

APPENDIX B – INCUMBENCY CERTIFICATE*TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A CORPORATION*

Name of Corporation

State of Incorporation

The undersigned hereby certifies that the following persons are the duly elected directors and officers, respectively, of

, a/an corporation.

Director

Director

Director

Director

Director

Director

President

Vice President

Treasurer

Secretary

Effective Date:

a/an

corporation

By:

Name:

Title:

APPENDIX C – CORPORATE RESOLUTION

TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A CORPORATION

ADDITIONAL NOTE: APPENDIX D MAY BE PROVIDED AS AN ALTERNATIVE TO THIS APPENDIX C

The undersigned, being all the members of the Board of Directors (the “**Board of Directors**”) of , a/an corporation (the “**Corporation**”), hereby adopt the following preambles and resolutions:

WHEREAS, the Corporation desires to purchase an interest in IREX V Diversified Portfolio DST (the “**Investment**”);

WHEREAS, that the Corporation is authorized to execute and deliver all documents relating to the Investment; and

WHEREAS, the Board of Directors believes it to be in the best interest of the Corporation to make the Investment and execute any documents related thereto.

NOW THEREFORE, BE IT RESOLVED, that the Investment is hereby approved, confirmed and ratified by the Board of Directors in all respects;

FURTHER RESOLVED, that , an officer of the Corporation (“**Officer**”), is hereby authorized and directed to execute, deliver and perform those agreements and documents related to the Investment, in the name and on behalf of the Corporation, with such changes therein and additions thereto as the Officer may deem necessary, appropriate or advisable to effect the transactions contemplated by the foregoing resolution;

FURTHER RESOLVED, that the Officer is hereby authorized and directed to execute, deliver and perform all further instruments and documentation and to take all other actions, in the name and on behalf of the Corporation, as it may deem convenient or proper to carry out the Investment; and

FURTHER RESOLVED, that any action heretofore taken and all documentation heretofore delivered by the Corporation or the Officer in furtherance of the Investment and foregoing resolutions are hereby ratified and confirmed in all respects.

Effective Date:

Director (signature)

Director (signature)

Director (signature)

Director (signature)

Director (signature)

Director (signature)

Being all of the Directors of the Corporation

APPENDIX D – OFFICER’S CERTIFICATE

TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A CORPORATION.

ADDITIONAL NOTE: APPENDIX C MAY BE PROVIDED AS AN ALTERNATIVE TO THIS APPENDIX D

The undersigned, , hereby certifies that:

1. is the of a/an corporation (“**Corporation**”), and has personal knowledge of the matters set forth herein.
2. This Certificate is executed to evidence the approval and consent of the Corporation to purchase an interest in IREX V Diversified Portfolio DST (the “**Investment**”).
3. The undersigned acknowledges that the Corporation is authorized to execute and deliver all documents relating to the Investment.
4. Pursuant to the organizational documents of the Corporation, the specific consent or approval of the Board of Directors of the Corporation is not necessary for the consummation of the Investment.
5. The undersigned acting alone has the authority, pursuant to the organizational documents of the Corporation, to execute all documents related to the Investment.
6. This Certificate may be relied upon by IREX V Diversified Portfolio DST and its affiliates.

Effective Date:

By:

Name:

Title:

APPENDIX E – PARTNERSHIP RESOLUTION

TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A PARTNERSHIP

The undersigned, being all the partners (each a “**Partner**”, collectively the “**Partners**”) of , a/an partnership (the “**Partnership**”), hereby adopt the following preambles and resolutions:

WHEREAS, the Partnership desires to purchase an interest in IREX V Diversified Portfolio DST (the “**Investment**”);

WHEREAS, that the Partnership is authorized to execute and deliver all documents relating to the Investment; and

WHEREAS, the Partners believe it to be in the best interest of the Partnership to make the Investment and execute any documents related thereto.

NOW THEREFORE, BE IT RESOLVED, that the Investment is hereby approved, confirmed and ratified by the Partners in all respects, and shall come into force and effect on the date when the last applicable Partner executes this resolution;

FURTHER RESOLVED, that , an agent of the Partnership (“**Authorized Person**”), is hereby authorized and directed to execute, deliver and perform those agreements and documents related to the Investment, in the name and on behalf of the Partnership, with such changes therein and additions thereto as the Authorized Person may deem necessary, appropriate or advisable to effect the transactions contemplated by the foregoing resolution;

FURTHER RESOLVED, that the Authorized Person is hereby authorized and directed to execute, deliver and perform all further instruments and documentation and to take all other actions, in the name and on behalf of the Partnership, as it may deem convenient or proper to carry out the Investment; and

FURTHER RESOLVED, that any action heretofore taken and all documentation heretofore delivered by the Partnership or the Authorized Person in furtherance of the Investment and foregoing resolutions are hereby ratified and confirmed in all respects.

Partner (signature)

Date

Partner (signature)

Date

Partner (signature)

Date

Partner (signature)

Date

Partner (signature)

Date

Partner (signature)

Date

Being all of the Partners of the Partnership

APPENDIX F – LIMITED LIABILITY COMPANY RESOLUTION

TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A LIMITED LIABILITY COMPANY

The undersigned, being all the members (each a “**Member**”, collectively the “**Members**”) of , a/an limited liability company (the “**LLC**”), hereby adopt the following preambles and resolutions:

WHEREAS, the LLC desires to purchase an interest in IREX V Diversified Portfolio DST (the “**Investment**”);

WHEREAS, that the LLC is authorized to execute and deliver all documents relating to the Investment; and

WHEREAS, the Members believe it to be in the best interest of the LLC to make the Investment and execute any documents related thereto.

NOW THEREFORE, BE IT RESOLVED, that the Investment is hereby approved, confirmed and ratified by the Members in all respects and shall come into force and effect on the date when the last applicable Member executes this resolution;

FURTHER RESOLVED, that , an agent of the LLC (“**Authorized Person**”), is hereby authorized and directed to execute, deliver and perform those agreements and documents related to the Investment, in the name and on behalf of the LLC, with such changes therein and additions thereto as the Authorized Person may deem necessary, appropriate or advisable to effect the transactions contemplated by the foregoing resolution;

FURTHER RESOLVED, that the Authorized Person is hereby authorized and directed to execute, deliver and perform all further instruments and documentation and to take all other actions, in the name and on behalf of the LLC, as it may deem convenient or proper to carry out the Investment; and

FURTHER RESOLVED, that any action heretofore taken and all documentation heretofore delivered by the LLC or the Authorized Person in furtherance of the Investment and foregoing resolutions are hereby ratified and confirmed in all respects.

Member (signature)

Date

Member (signature)

Date

Member (signature)

Date

Member (signature)

Date

Member (signature)

Date

Member (signature)

Date

Being all of the Members of the LLC

EXHIBIT B
TAX OPINION
[ATTACHED]

**Baker & McKenzie LLP**

300 East Randolph Street, Suite 5000
Chicago, IL 60601
United States

Tel: +1 312 861 8000
Fax: +1 312 861 2899
www.bakermckenzie.com

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Toronto
Washington, DC

* Associated Firm
** In cooperation with
Trench, Rossi e Watanabe
Advogados

April 24, 2026

Invesco Real Estate Exchange LLC
2300 N Field St., Suite 1200
Dallas, Texas 75201

Re: IREX V Diversified Portfolio DST

Dear Ladies and Gentlemen:

Invesco Real Estate Exchange LLC, a Delaware limited liability company (the “**Company**”) and IREX V Diversified Portfolio DST (the “**Parent Trust**”) have retained Baker & McKenzie LLP, as special tax counsel, to address certain federal income tax consequences and render opinions on specific federal income tax issues in connection with the proposed transactions described in the Confidential Delaware Statutory Trust Program Memorandum and Property Supplement for Interests in the Parent Trust (collectively, the “**Memorandum**”). Unless otherwise indicated, all capitalized terms used herein and not otherwise defined have the meanings set forth in the Memorandum.

In formulating our opinion, we have reviewed the following documents: (i) the Memorandum; (ii) the Trust Agreements; (iii) the form Limited Liability Company Agreements accompanying the Trust Agreements; (iv) the Master Lease; and (v) the Subscription Documents (collectively, the “**Transaction Documents**”). We have also assumed that the representations set forth in the letter addressed to us and signed on behalf of the Company on April 24, 2026 (the “**Representation Letter**”) are true, complete, and correct in all respects as of the date hereof.

Based on our review of the Transaction Documents and the Representation Letter, it is our opinion that (i) the Trusts should be treated as investment trusts described in Treasury Regulations Section 301.7701-4(c)¹ that are classified as “trusts” under Treasury Regulations Section 301.7701-4(a); (ii) the Purchasers, as Beneficial Owners in the Parent Trust, should be treated as “grantors” of the Parent Trust and the Operating Trusts; (iii) as “grantors,” the Beneficial Owners should be treated as owning an undivided fractional interest in the Properties for federal income tax purposes; (iv) the Interests should not be treated as securities for purposes of Section 1031; (v) the Interests should not be treated as certificates of trust or beneficial interests for purposes of Section 1031; (vi) the Master Lease should be treated as a true lease and not a financing for federal income tax purposes; (vii) the Master Lease should be treated as a true lease and not a deemed partnership for federal income tax purposes; (viii) the Elizabeth on Seventh Property should not be subject to the limitations of Section 470 because less than 35% of the Elizabeth on Seventh Property is leased to tax-exempt entities in disqualified leases; (ix) the discussions of the federal income tax consequences contained in the Memorandum are correct in all material respects; and (x) certain judicially created doctrines should not apply to change the

¹ All section references provided for herein refer to the Internal Revenue Code of 1986, as amended (the “**Code**”) and the Treasury Regulations promulgated thereunder.

foregoing conclusions.

Our opinion does not address, and should not be viewed as expressing any opinion concerning, whether the acquisition of an Interest will, in light of the facts and circumstances applicable to a specific Purchaser, constitute the acquisition of like-kind replacement property by any Purchaser in a transaction that qualifies for nonrecognition of gain or loss under Section 1031.

DISCUSSION

Section 1031(a)(1) provides that “[n]o gain or loss shall be recognized on the exchange of real property held for productive use in a trade or business or for investment if such real property is exchanged solely for real property of like kind which is to be held either for productive use in a trade or business or for investment.” Non-recognition treatment does not apply if the interests in the property being exchanged are, *inter alia*, regarded as interests in a partnership, securities, or certificates of trust or beneficial interests.² Section 1031 does not expressly address the treatment of interests in a Delaware Statutory Trust (“DST”).

The Internal Revenue Service (the “IRS”) concluded in Revenue Ruling 2004-86³ that, under the limited circumstances set forth therein, beneficial owners of a DST that owns real estate will be treated as owning a direct interest in such real estate for purposes of the nonrecognition provisions of Section 1031. In order to reach this conclusion, the IRS determined that (i) the DST described therein will be treated as an investment trust under Treasury Regulations Section 301.7701-4(c) that is classified as a “trust” under Treasury Regulations Section 301.7701-4(a), and (ii) the beneficial owners of the DST are “grantors” and, as such, are treated as owning direct interests in the DST’s property for federal income tax purposes. We believe that the tax treatment of the Parent Trust (and the Operating Trusts held by the Parent Trust), as well as the Beneficial Owners (and the Interests that are the subject of the Offering) should be the same as the treatment of the DST and its beneficial owners in Revenue Ruling 2004-86.

² Treas. Reg. § 1.1031(a)-1(a)(1); former Section 1031(a)(2)(C), (D), (E) (1984). On December 22, 2017, the Tax Cuts and Jobs Act (“TCJA”) was signed into law. The TCJA significantly modified Section 1031 by limiting it to *only* exchanges of certain real property not held primarily for sale. Exchanges of personal and intangible property completed after December 31, 2017 can no longer qualify for a Section 1031 Exchange. Additionally, the TCJA eliminated specific language providing that exchanges of certain types of property (stock in trade or other property held primarily for sale, stocks, bonds, or notes, other securities, or evidences of indebtedness or interest; interests in a partnership; certificates of trust or beneficial interest, or choses in action) are excluded from a Section 1031 Exchange. Although the specific language providing for non-qualification (for Section 1031 purposes) of interests in a partnership, securities, certificates of trust, and beneficial interests has been eliminated from the statute, an analysis of these terms remains relevant to the analysis and conclusion set forth herein that the Beneficial Owners should be treated as owning qualifying real property for federal income tax purposes.

³ 2004-2 C.B. 191.

I. The Trusts should be treated as investment trusts described in Treasury Regulations Section 301.7701-4(c) that are classified as “trusts” under Treasury Regulations Section 301.7701-4(a).

The Parent Trust and the Operating Trusts should be classified as “trusts” under Treasury Regulations Section 301.7701-4(a) because each Trust (i) should be recognized as an entity separate from the Beneficial Owners for federal income tax purposes, and (ii) should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c).

A. The Parent Trust and the Operating Trusts each should be recognized as an entity separate from the Beneficial Owners for federal income tax purposes.

Whether an organization is an entity separate from its owners for federal income tax purposes is a matter of federal tax law and does not depend on whether the organization is recognized as an entity under local law.⁴ Thus, an entity formed under local law is not always recognized as a separate entity for federal income tax purposes.⁵ When participants in a venture form a state-law entity and avail themselves of the benefits of that entity for a valid business purpose, however, the entity generally will be recognized for federal income tax purposes.⁶

An entity formed under state law that acts as a mere agent of its owners will not be treated as an entity separate from its owners for federal income tax purposes. In *Commissioner v. Bollinger*,⁷ a corporation was treated as an agent of its owners where the corporation functioned merely as the nominal debtor and record title holder to mortgaged property. The shareholders entered into an agreement providing that (i) the corporation would hold title to the property as the shareholders’ nominee and agent solely to secure financing, (ii) the shareholders had sole control and responsibility for the mortgaged property, and (iii) the shareholders were the principals and owners of the property during its financing, construction, and operation. The Supreme Court held that the shareholders, rather than the corporation, were the owners of the property because the relationship between the shareholders and the corporation was, in both form and substance, an agency with the shareholders as principals.

Similarly, the IRS concluded in Revenue Ruling 92-105⁸ that an Illinois land trust was not to be treated as an entity separate from its owner for federal income tax purposes. A single taxpayer created an Illinois land trust and named a domestic corporation as trustee. The taxpayer transferred legal and equitable title to real property to the trust, subject to the provisions of an accompanying land trust agreement. Under the agreement, the taxpayer (i) retained exclusive control of the management, operation, rental, and sale of the real property, together with an exclusive right to the earnings and proceeds from the real property, and (ii) was required to file all tax returns, pay all taxes, and satisfy any other

⁴ Treas. Reg. § 301.7701-1(a)(1).

⁵ Treas. Reg. § 301.7701-1(a)(3).

⁶ See *Moline Properties, Inc. v. Comm’r*, 319 U.S. 436 (1943).

⁷ 485 U.S. 340 (1988).

⁸ 1992-2 C.B. 204.

liabilities with respect to the real property. Under Illinois law, there is no limitation on liability of a beneficiary of an Illinois land trust. Because the trustee's only responsibility was to hold and transfer title to the property at the direction of the beneficiary, and because the beneficiary retained the direct obligation to pay liabilities and taxes related to the property, the right to manage and control the property, as well as any liability with respect to the property, the IRS concluded that the Illinois land trust could not rise to the level of an "entity" separate from the beneficial owner for federal income tax purposes.

In contrast, the IRS concluded in Revenue Ruling 2004-86⁹ that the DST described therein was an entity that should be recognized as separate from its owners for federal income tax purposes. The IRS did so by looking to the powers, limitations, and benefits that Delaware law accords to a DST and its beneficial owners. Under Delaware law, creditors of a beneficial owner in a DST may not assert claims directly against the property held by a DST; they can seek payment only from the beneficial owner herself. The property of a DST is subject to attachment and execution with respect to liabilities of the DST as if the DST were a corporation. A DST may sue or be sued. The beneficial owners of a DST are entitled to the same limitation on personal liability stemming from actions of a DST that is extended to stockholders of a corporation organized under Delaware law. A DST may merge or consolidate with or into one or more statutory entities or other business entities. A DST can be formed for investment purposes. These powers and privileges afforded to a DST and the beneficial owners thereof, as well as the purpose of a DST, led the IRS to conclude that a DST is an entity separate from its owners for federal income tax purposes.¹⁰

Based on the authorities discussed above, the Parent Trust and the Operating Trusts each should be recognized as an entity separate from the Beneficial Owners. The Parent Trust and the Operating Trusts should not be viewed merely as agents of the Beneficial Owners because, unlike the trusts in *Bollinger* and Revenue Ruling 92-105, the Beneficial Owners have no right or power to direct in any manner the actions of the Manager in connection with the operation of the Parent Trust or the Operating Trusts.¹¹

Specifically, the Beneficial Owners have no right or power to (i) contribute additional assets to the Trusts (other than the initial contribution of cash in exchange for Interests), (ii) be involved in any manner in the operation or management of the Trusts or their assets, (iii) cause the Trusts to negotiate or renegotiate leases or loans, or (iv) cause the Trusts to sell their assets and reinvest the proceeds of such sale.¹²

Additionally, the Operating Trust Agreements require the Manager to cause the Operating Trusts to, among others: (i) not sell, transfer or exchange the applicable Property except as required under Article 9 of the Operating Trust Agreements, (ii) not reinvest any monies of the applicable Operating Trust, except to make modifications or repairs to the applicable Property permitted under the Operating Trust Agreements, (iii) not enter into any financing (except in the case of a lessee's bankruptcy or insolvency), (iv) not renegotiate the Master Lease or enter into new leases (except in the case of the Master Tenant's bankruptcy or

⁹ 2004-2 C.B. 191.

¹⁰ *Id.* (citing to Del. Code Ann. Title 12, §§ 3801-3824).

¹¹ *See* Trust Agreements at § 6.13.

¹² *Id.*

insolvency), (v) not make modifications to the applicable Property (other than minor non-structural modifications) unless required by law, (vi) not accept any capital from a Beneficial Owner (other than capital from a Purchaser that will be (1) used to pay expenses of the Offering and sale of the Beneficial Interests, (2) used to fund reserves, or (3) distributed to the Depositor and reduce the Depositor's percentage share), or (vii) not take any other action which would in the reasoned opinion of tax counsel to the applicable Trust should cause such Trust to be treated as a business entity for federal income tax purposes if the effect would be that such action or actions would constitute a power under the applicable Trust Agreement to "vary the investment of the certificate holders" under Treasury Regulations Section 301.7701-4(c)(1) and Revenue Ruling 2004-86.¹³

Further, the Parent Trust Agreement requires the Manager to cause the Parent Trust to (i) manage, control, dispose of, or otherwise deal with the Trust Estate (as defined in the Parent Trust Agreement) in its discretion, and (ii) prepare or cause to be prepared separate financial statements.¹⁴

These requirements and prohibitions evidence an intent that the Parent Trust and the Operating Trusts be engaged in activities on their own behalf rather than as an agent of the Beneficial Owners. Lastly, because each of the Parent Trust and the Operating Trusts is organized as a DST, the Beneficial Owners may avail themselves only of the limited powers and privileges afforded to a beneficial owner under Delaware law. Thus, the Trusts (as DSTs) and the Beneficial Owners have substantially all of the same powers, limitations, and benefits as the trust that the IRS found to constitute an entity separate from its owners for federal income tax purposes in Revenue Ruling 2004-86. Accordingly, each of the Parent Trust and the Operating Trusts should be recognized for federal income tax purposes as an entity separate from the Beneficial Owners.

B. The Trusts should be treated as investment trusts described in Treasury Regulations Section 301.7701-4(c).

A trust arrangement generally will be classified as a "trust" rather than another form of business entity for federal income tax purposes if it can be shown that the purpose of the arrangement is to vest in trustees responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of a business for profit.¹⁵ A trust with a single class of ownership interests that provides no power to vary the investments of the trust is classified as an investment trust that is treated as a "trust" for federal income tax purposes.¹⁶ A trust with multiple classes of ownership interests that otherwise meets the description of an investment trust also will be classified as a "trust" for federal income tax purposes if the existence of multiple classes of ownership interests is incidental to the purpose of facilitating the direct investment in the trust's assets.¹⁷ As discussed in greater detail below, the Trusts should be treated as "investment trusts"

¹³ See Operating Trust Agreements at § 3.2(c).

¹⁴ See Parent Trust Agreement at §§ 5.3 & 7.3.

¹⁵ Treas. Reg. § 301.7701-4(a).

¹⁶ Treas. Reg. § 301.7701-4(c)(1).

¹⁷ *Id.*

described in Treasury Regulations Section 301.7701-4(c) that are classified as “trusts” under Treasury Regulations Section 301.7701-4(a).

1. No power exists under the Trust Agreements for the Trustees or Manager to vary the investments of the Parent Trust or the Operating Trusts.

The courts and the IRS have considered the extent to which the powers granted under a trust arrangement exceed those required simply to protect and conserve property for the benefit of the beneficiaries. Two opinions issued by the Second Circuit on the same day generally are viewed as the leading judicial guidance on the distinction between a trust arrangement that meets the description of an investment trust and a trust arrangement granting the power to vary the investments held therein. Additionally, the IRS has issued several revenue rulings, the most relevant being Revenue Ruling 2004-86, that distinguish the limited arrangements that would constitute an investment trust from a broader grant of powers that prohibits classification as a “trust.” In all material respects, we believe that the powers granted to the Trustees and Manager in the Trust Agreements are consistent with the limited scope of powers applicable to an investment trust described in Treasury Regulations Section 301.7701-4(c).

a. Authorities.

(i) Case Law.

In *Commissioner v. Chase National Bank*,¹⁸ the court addressed whether a state-law trust arrangement should be classified as a “trust” for federal income tax purposes. In that case, the depositor purchased shares of the common stock of several corporations and made up “units” consisting of a number of shares of the common stock of each corporation. The “units” were deposited in a trust, and then certificates in the trust were sold to investors. The trustee was vested with all of the rights of ownership of the shares except that the depositor controlled the voting rights of the shares and the trust instrument governed and restricted the disposal of the shares. Under the terms of the trust instrument, property deposited into the trust was held until some disposition of it was made consistent with the terms of the trust instrument. Further, distributions of currently available funds were required. No purchases were to be made by the trustee by way of reinvestment of funds or otherwise. The Second Circuit found that the trust instrument “prevented the trusts from being, or becoming, more than what are sometimes called strict investment trusts.” The court concluded that the trust required “that the trust property was to be held for investment and not to be used as capital in the transaction of business for profit like a corporation organized for such a purpose. This distinction is what makes the difference tax-wise.”¹⁹

In another opinion released on the same day as *Chase National Bank*, the Second Circuit reached a different result. In *Commissioner v. North American Bond Trust*,²⁰ the court recognized that, although the trust arrangement was similar to the trust in *Chase National*

¹⁸ 122 F.2d 540 (2d Cir. 1941).

¹⁹ *Id.* at 543.

²⁰ 122 F.2d 545 (2d Cir. 1941), *cert. denied*, 314 U.S. 701 (1942).

Bank, the trust instrument was slightly different because it provided the depositor with the power “in effect to change the investment of certificate holders at his discretion.”²¹ In making up new units, the depositor was not confined to the same bonds he had selected for the previous units. Additionally, the bonds of all units constituted a single pool in which each certificate holder shared according to his proportion of all the certificates issued. As a result, the money from new investors could be used to purchase new bond issues that would in turn reduce the existing certificate holders’ interests in the old bond issues. The depositor thus could take advantage of market variations in a manner that could improve the investment of the original investors through dilution of the original investment. Based on these facts, the court held that the depositor “had power, though a limited power, to vary the existing investments of all certificate holders at will . . .”²² and, accordingly, that the trust was treated as taxable as an association rather than as a fixed investment trust.

(ii) Revenue Ruling 2004-86.

The analyses and conclusions of the IRS in Revenue Ruling 2004-86 are consistent with the Second Circuit’s holdings in the cases discussed above. Revenue Ruling 2004-86 considered the situation in which an individual (John) borrowed money from an unrelated lender (Bank) and signed a 10-year, interest-bearing nonrecourse note. John then used the proceeds of the loan to purchase rental real property, Blackacre, which was the sole collateral for the loan from the Bank. Immediately thereafter, John “net” leased the property to Mary for a term of 10 years.²³ Under the terms of the lease, Mary was required to pay all taxes, assessments, fees, or other charges imposed on Blackacre by federal, state, or local authorities. In addition, Mary was required to pay all insurance, maintenance, ordinary repairs, and utilities relating to Blackacre. Mary was free to sublease Blackacre to anyone she chose. The rent paid by Mary to John was a fixed amount that could be adjusted by a formula described in the lease agreement that was based upon a fixed rate or an objective index, such as an escalator clause based upon the Consumer Price Index, but adjustment to the rate or index was not within the control of any of the parties to the lease. The rent paid by Mary was not contingent upon Mary’s ability to lease the property or on her gross sales or net profits derived from Blackacre.²⁴

On the same date that John acquired Blackacre and leased it to Mary, John also formed a trust under Delaware law to which he contributed fee title to Blackacre after entering into the loan with the Bank and the lease with Mary. Upon contribution, the trust assumed John’s rights and obligations under the loan from the Bank as well as under the lease with Mary. In accordance with the nonrecourse nature of the note, neither the trust nor any of its beneficial owners were personally liable to the Bank for the loan, which continued to

²¹ *Id.* at 546.

²² *Id.*

²³ The ruling does not indicate whether John is related to Mary, but given that the ruling states that Mary is not related to persons described in the ruling other than John, it can be assumed that she is related to him.

²⁴ Although the lease from John to Mary is described in Revenue Ruling 2004-86 as a “net” lease, it is not clear whether the lessor or the lessee would be required to make capital improvements or major repairs to the property. Thus, the lease might be “double net,” in which the lessor remains liable for certain capital improvements and repairs (such as repairs to the roof) instead of a “triple net” lease in which the lessee is responsible for the property in all events.

be secured by Blackacre.

The trust agreement provided that interests in the trust were freely transferable; however, interests in the trust were not publicly traded on an established securities market. The trust would terminate on the earlier of 10 years from the date of its creation or the disposition of Blackacre, but would not terminate on the bankruptcy, death, or incapacity of any owner, or the transfer of any right, title, or interest of the beneficial owners of the trust.

The trust agreement authorized the trustee to engage in only those activities central to the collection, investment, and distribution of income arising from Blackacre. The trust agreement authorized the trustee to use trust funds to establish a reasonable reserve to pay expenses incurred in connection with holding Blackacre. The trustee was required to distribute on a quarterly basis all available cash less such reserves to each beneficial owner in proportion to their respective interests in the trust. The trustee was required to invest cash received from Blackacre between each quarterly distribution and all cash reserves in short-term obligations, *i.e.*, maturing prior to the next quarterly distribution date, of (or guaranteed by) the United States or any agency or instrumentality thereof, and in certificates of deposit of any bank or trust company having a minimum stated surplus and capital. The trustee was required to hold such obligations until maturity. In addition to the right to a quarterly distribution of cash, each beneficial owner had the right to an in-kind distribution of its proportionate share of the property of the trust.

The trust agreement prohibited the trustee from engaging in activities beyond the scope of the collection, investment, and distribution of income arising from Blackacre. The trustee could not exchange Blackacre for other property, purchase assets other than the short-term investments described above or accept additional contributions of assets (including money) for the trust from the beneficiaries. The trustee could not renegotiate the terms of the debt used to acquire Blackacre and could not renegotiate the lease with Mary or enter into leases with tenants other than Mary, except in the case of Mary's bankruptcy or insolvency.²⁵ In addition, the trustee could make only minor non-structural modifications to Blackacre, unless otherwise required by law. The trust agreement further provided that the trustee could engage in ministerial activities to the extent required to maintain and operate the trust under local law. In addition, the trustee could not enter into a written agreement with John or indicate to third parties that the trustee (or the trust) is his agent.

Immediately after John contributed his interest in Blackacre to the trust, he conveyed his entire interest in the trust to Dan and Michelle in exchange for interests in Whiteacre and Greenacre, respectively. Dan and Michelle were not related to the Bank or Mary (the lessee of Blackacre), and neither the trustee nor the trust was an agent of Dan or Michelle. Dan and Michelle desired to treat their acquired interests in the trust as replacement property pursuant to a Section 1031 like-kind exchange for their relinquished properties, Whiteacre

²⁵ Revenue Ruling 2004-86, in its statement of facts, expressly provides that “[t]he trustee may not renegotiate the terms of the debt used to acquire [the property] and may not renegotiate the lease with [the tenant] or enter into leases with tenants other than [the tenant], except in the case of [the tenant’s] bankruptcy or insolvency.” We believe the correct interpretation of this provision is that the exception applies to renegotiating the financing as well as new leases.

and Greenacre, respectively.

Neither the trust, nor the trustee entered into a written agreement with John, Dan, or Michelle creating an agency relationship and in dealings with third parties, neither the trust nor the trustee represented itself as an agent of John, Dan, or Michelle.

To determine whether the trust arrangement qualified as an investment trust classified as a “trust” for federal income tax purposes, the IRS examined whether the trust agreement granted the power to vary the investment of the trust’s beneficial interest holders. Because the duration of the trust was the same as the duration of the loan and the lease that were assumed by the trust at the time of its formation, the financing and leasing arrangements of the trust and its assets (Blackacre) were fixed for the entire life of the trust. Furthermore, the trustee was permitted to invest only in short-term obligations that mature prior to the next quarterly distribution date and was required to hold these obligations until maturity. Because the trust agreement required that (i) any cash from Blackacre, and any cash earned on short-term obligations held by the trust between distribution dates, be distributed quarterly, (ii) no cash could be contributed to the trust by the beneficiaries, (iii) the trust could not borrow any additional money, and (iv) the disposition of Blackacre would result in the termination of the trust, the IRS concluded that there was no possibility of the reinvestment of money under the trust agreement.

In the Revenue Ruling’s analysis, the IRS emphasized that the trustee’s activities were limited to the collection and distribution of income. The trustee could not exchange Blackacre for other property, purchase assets other than short-term investments, or accept any additional contributions of assets (including money) for the trust. The trustee could not renegotiate the terms of the debt used to acquire Blackacre and could not renegotiate the lease with Mary or enter into leases with tenants other than Mary, except in the case of her bankruptcy or insolvency. In addition, the trustee could make only minor non-structural modifications to its property except to the extent required by law. The IRS observed that the trustee had none of the powers that would indicate intent to carry on a profit-making business. Accordingly, the IRS concluded that the trustee had no power to vary the investment of the beneficiaries of the trust, which is consistent with the description of an investment trust classified as a “trust” for federal income tax purposes.

The IRS expressly warned in Revenue Ruling 2004-86 that the trust arrangement would not have qualified as an investment trust, and therefore would not have been classified as a “trust,” if the trustee had been given the power to do one or more of the following:

- dispose of Blackacre and acquire new property;
- renegotiate the lease with Mary;
- enter into leases with a tenant other than Mary (except in the case of Mary’s bankruptcy or insolvency);
- renegotiate the obligation used to purchase Blackacre (except in the case of Mary’s bankruptcy or insolvency);

- receive capital contributions from the investors;
- invest cash received to profit from market fluctuations; or
- make more than minor non-structural modifications to Blackacre that were not required by law.

Thus, it is not sufficient that the trustee never takes any of the actions described above—the trustee must lack the power to undertake those actions. This aspect of Revenue Ruling 2004-86 is consistent with the case law in which a trust is classified in accordance with the powers that the trustee has under the trust agreement without regard to what actions, if any, the trustee has performed other than to conserve and protect the property of the trust.

(iii) Other Revenue Rulings.

The IRS also addressed the classification of trust arrangements in several other revenue rulings. Revenue Ruling 75-192²⁶ involved a trust agreement that required the trustee to invest cash on hand between quarterly distribution dates only in specified short-term obligations maturing prior to the next distribution date and required to hold such obligations until maturity. The IRS concluded that, because the restrictions on the types of permitted investments limited the trustee to a fixed return similar to that earned on a bank account and eliminated any opportunity to profit from market fluctuations, the power to invest in such assets was not a power to vary the trust's investments.

Similarly, the IRS classified the trust arrangement described in Revenue Ruling 79-77,²⁷ which was formed to hold real property, as a “trust” for federal income tax purposes. The beneficiaries were required to approve all agreements entered into by the trustee and they were personally liable for the debts of the trust. The beneficiaries directed the trustee to enter into a 20-year lease that required the tenant to pay all taxes, assessments, fees, or other charges imposed on the property by federal, state, or local authorities. In addition, the tenant paid all insurance, maintenance, repairs, and utilities relating to the property. The trustee could determine whether to allow the tenant to make minor nonstructural alterations to the real estate, but only if the alterations would protect and conserve the property or were required by law. The trustee was empowered to institute legal or equitable actions to enforce any provisions of the lease. The trust would terminate on the sale of substantially all of its assets or upon unanimous agreement of the beneficiaries. Based on the above, the IRS classified the trust arrangement described in Revenue Ruling 79-77 as a “trust” for federal income tax purposes.

In contrast, the IRS concluded that the trust arrangement described in Revenue Ruling 78-371²⁸ was classified as a business entity rather than a “trust.” Unlike the trust arrangement described in Revenue Ruling 79-77 that restricted the trustee to dealing with a single piece of property subject to a net lease, the trust arrangement in Revenue Ruling 78-371 expressly authorized the trustees to purchase and sell contiguous or adjacent real estate, to accept or

²⁶ 1975-1 C.B. 384.

²⁷ 1979-1 C.B. 448.

²⁸ 1978-2 C.B. 344.

reject certain contributions of contiguous or adjacent real estate, and to raze or erect any building or other structure or make any improvements to the land contributed to the trust. The trustees were also empowered to borrow money and to mortgage and lease the trust property. The IRS concluded in Revenue Ruling 78-371 that the trustee's power to engage in extensive real estate operations and to reinvest the sales proceeds in financial products indicated that the trust arrangement was not formed merely to protect and conserve the trust's property and, thus, ruled that the trust was taxable as a business entity treated as a corporation.

The existence of a power to sell trust assets does not always give rise to a power to vary the trust's investments.²⁹ The courts and the IRS have concluded that even though a trustee may possess the power to sell trust assets under certain limited circumstances, such a trust arrangement can still qualify as an investment trust classified for federal income tax purposes as a "trust."³⁰ These authorities have clarified that, instead of the mere power to sell trust assets, it is the ability of the trustee to substitute new investments in order to take advantage of variations in the market that prohibit a trust arrangement from being treated as an investment trust classified as a "trust" for federal income tax purposes.

b. The Parent Trust Agreement.

The powers and authority granted to the Trustees, the Manager, Beneficial Owners, and the Parent Trust in the Parent Trust Agreement fall within the limited scope of the powers and authority that may be exercised by a trustee of an "investment trust." The Parent Trust Agreement authorizes the Manager to: (i) hold the Trust Estate, (ii) comply with the terms of any financing documents (iii) collect rents and make distributions, (iv) enter into any agreement for purposes of completing tax-free exchanges of real property with a "qualified intermediary" as defined in Treasury Regulations Section 1.1031(k)-1, (v) notify the relevant parties of any default by them under the Transaction Documents, (vi) take any action which in the reasoned opinion of tax counsel to the Parent Trust, should not have an adverse effect on either the treatment of the Parent Trust as an "investment trust" within the meaning of Treasury Regulations Section 301.7701-4(c) or each Beneficial Owner as a "grantor" within the meaning of Section 671; and (vii) solely to the extent necessitated by the bankruptcy or insolvency of a tenant, if the Parent Trust has not terminated under Section 9.2 of the Parent Trust Agreement, enter into a new lease with respect to the applicable Property, amend any existing leases of the Operating Trusts, or renegotiate or refinance any debt secured by the Properties.³¹

Additionally, the Parent Trust Agreement provides that none of the Trustees, the Manager, the Beneficial Owners, and the Parent Trust shall have any power or authority to undertake any actions that are not permitted to be undertaken by an entity that is treated as a "trust" within the meaning of Treasury Regulations Section 301.7701-4 and not treated as a

²⁹ *Id.*

³⁰ *See Comm'r v. N. Am. Bond Trust*, 122 F.2d 545 (2d Cir. 1941), *cert denied* 314 U.S. 701 (1942); *Pennsylvania Co. for Insurances on Lives and Granting Annuities v. United States*, 146 F.2d 392 (3d Cir. 1944); *see also* Rev. Rul. 78-149, 1978-1 C.B. 448; Rev. Rul. 73-460, 1973-2 C.B. 425.

³¹ *See* Parent Trust Agreement at § 5.3(b).

“business entity” within the meaning of Treasury Regulations Section 301.7701-3.³² The Parent Trust Agreement expressly prohibits the Manager from exercising any of the enumerated powers that are prohibited under Revenue Ruling 2004-86.³³ Finally, as noted above, the Beneficial Owners generally have no right or power to make decisions for or to operate or manage the Parent Trust.³⁴

We believe that the material provisions of the Parent Trust Agreement that are not included in the trust arrangement described in Revenue Ruling 2004-86 are consistent with treating the Parent Trust as an investment trust. These provisions include, but are not limited to: (i) the power to sell the Parent Trust’s corpus; (ii) the potential termination of the Parent Trust through any event that would cause a Transfer Distribution; and (iii) the potential transfer of a Property to the Operating Partnership pursuant to the FMV Option provided in the Trust Agreements.

The power granted under the Parent Trust Agreement to sell the Operating Trusts should not be viewed as a power to vary the Parent Trust’s investments. Immediately after a sale of the Operating Trusts, the sales proceeds must be distributed to the Beneficial Owners and the Parent Trust will terminate.³⁵ The Manager or the Trustees do not have the power to purchase replacement investments with the proceeds from the sale of the Operating Trusts.³⁶ Additionally, the power of the Manager to cause a sale of an Operating Trust is not unfettered, and it is the intent of the parties to the Parent Trust Agreement that the Trust Estate will be held for at least two years.³⁷ Similarly, the FMV Option cannot be exercised by the Operating Partnership until all Beneficial Owners have held their Interests for at least two years.³⁸ The Operating Partnership may, in its sole discretion, extend the FMV Option Exercise Period by an additional year.³⁹

The sale of the Operating Trusts under these circumstances is consistent with the objective of achieving an investment return on the assets comprising the initial trust estate when the Beneficial Owners acquired their interests therein. Because the sales proceeds cannot be reinvested by the Trustees or the Manager, the Parent Trust Agreement does not confer the power to “better” the investments in the Parent Trust by taking advantage of market variations. The assets that can be held by the Parent Trust are restricted to the Operating Trusts and the cash reserves that accumulate between quarterly distributions.⁴⁰ All cash reserves will be invested only in the types of debt instruments expressly permitted under Revenue Ruling 2004-86.⁴¹ Accordingly, providing the Manager with the discretion concerning the timing and amount of the sale of the Operating Trusts should not prevent the Parent Trust from being treated as an investment trust that is classified as a “trust” for

³² See Parent Trust Agreement at § 3.2(c).

³³ *Id.*

³⁴ See Parent Trust Agreement at § 6.13.

³⁵ See Parent Trust Agreement at §§ 7.2 & 9.3.

³⁶ See Parent Trust Agreement at § 7.2.

³⁷ See Parent Trust Agreement at § 9.3.

³⁸ See Parent Trust Agreement at § 10.1.

³⁹ *Id.*

⁴⁰ See Parent Trust Agreement at § 7.2.

⁴¹ *Id.*

federal income tax purposes.

Although no direct authority exists regarding the use of a Transfer Distribution in connection with a fixed investment trust, we believe the Transfer Distribution as used in the Parent Trust Agreement is consistent with treating the Parent Trust as a fixed investment trust for federal income tax purposes. We believe that the events that would cause a Transfer Distribution are not in any way expected or viewed as likely to occur, which supports the passive and fixed nature of the Parent Trust.

Moreover, the Parent Trust has represented that no Transfer Distribution is currently intended or anticipated and that to the knowledge of the Depositor, Parent Trust, and Manager, an event which would cause a Transfer Distribution with respect to any of the assets of the Parent Trust is not expected and that it is the belief of the Depositor, Parent Trust, and Manager that the occurrence of such an event would be unanticipated.

In addition, the FMV Option provided in the Trust Agreements should not be viewed as a power to vary the Trusts' investments. In the case of the FMV Option, such a transfer is only exercisable for a purchase price equal to the then fair market value of a Purchaser's Interest at such time in exchange for OP Units (or cash, as the case may be).⁴² The option price is tied directly to the fair market value as of the option exercise date as determined by an appraisal to be obtained at such time (adjusted for applicable liabilities, certain adjustments, and customary pro rations) and is not nominal in relation to such value or discounted in any way.⁴³ The FMV Option is discussed in further detail in Part VI.E below.

Although distinctions exist between the Parent Trust Agreement and the trust arrangement described in Revenue Ruling 2004-86, we believe these distinctions are not material. These distinctions include, but are not limited to: (i) the ongoing role of the Company or its affiliate as a Manager functioning in a role similar to a trust manager; (ii) the Parent Trust's potential acceptance of multiple contributions over time, rather than through a single contribution; and (iii) the conversion of the Parent Trust for tax purposes from a disregarded entity into an investment trust prior to the admission of purchasers. We believe that, like the material provisions discussed above, these provisions are consistent with, rather than contrary to, the analysis in Revenue Ruling 2004-86 for the reasons set forth below.

First, the Company's (or its affiliate's) ongoing role as the Manager should not be viewed as inconsistent with the analysis in Revenue Ruling 2004-86 or the case law because the Manager's powers are limited to those permitted to be exercised by a trustee of a fixed investment trust.

Second, the Parent Trust's acceptance of multiple contributions over time should not be viewed as raising additional capital (which is prohibited under Revenue Ruling 2004-86) because the capital of the Parent Trust is not increasing. Both the terms and the amount of the Offering were established at the time the Parent Trust Agreement was made.

⁴² See the Trust Agreements at §§ 10.1, 10.2, & 10.4.

⁴³ See the Trust Agreements at § 10.4.

Additionally, the proceeds of the additional closings must be distributed to the Depositor.⁴⁴ Further, the fact that 100% of the Interests may be sold in multiple closings rather than in a single closing is driven by practical considerations and does not provide a basis for distinguishing a trust from a partnership. In addition, because the terms of the Offering are fixed, the additional contributions do not enable the Parent Trust to benefit from market fluctuations over time.

Third, prior to conversion, the Parent Trust is not recognized as an entity separate from the Company (or its affiliate) for federal income tax purposes.⁴⁵ Accordingly, the conversion feature of the Parent Trust from a disregarded entity to a fixed investment trust should be viewed on its own as a mere formation of the Parent Trust as a fixed investment trust in a manner that is not inconsistent with the analysis under Revenue Ruling 2004-86.

Because none of these provisions permit the Manager to vary the investments of the Parent Trust in a manner that results in the Beneficial Owners improving their investment results based on variations in the market, we believe they are consistent with treating the Parent Trust as a fixed investment trust.

c. The Operating Trust Agreements.

The powers and authority granted to the Manager, Beneficial Owners, and the Operating Trusts in the Operating Trust Agreements fall within the limited scope of the powers and authority that may be exercised by a trustee of an “investment trust.” The Operating Trust Agreements authorize the Manager to take each of the following actions necessary to conserve and protect the Trust Estate (as defined in the Operating Trust Agreements): (a) hold the Trust Estate and enter into the Master Lease; (b) comply with the terms of any financing documents; (c) collect rents and make distributions; (d) enter into any agreement for purposes of completing tax-free exchanges involving Beneficial Interests with a “Qualified Intermediary” as defined in Treasury Regulations Section 1.1031(k)-1(g)(4)(iii); (e) notify the relevant parties of any default by them under the Transaction Documents; (f) take any action which in the reasoned opinion of tax counsel to the Trust, should not have an adverse effect on either the treatment of the applicable Trust as an “investment trust” within the meaning of Regulations Section 301.7701-4(c) or each Beneficial Owner as a “grantor” within the meaning of Section 671; and (g) solely to the extent necessitated by the bankruptcy or insolvency of a Master Tenant, enter into a new lease with respect to the applicable Property, amend any existing leases at the applicable Property, or renegotiate or refinance any debt secured by the applicable Property.⁴⁶ Additionally, the Operating Trust Agreements expressly deny the Manager any power or authority to take an action that would “vary the investment of the certificate holders” (i.e., cause the Operating Trusts to cease to be investment trusts described in Treasury Regulations Section 301.7701-4(c)).⁴⁷ Furthermore, the Operating Trust Agreements expressly prohibit the Manager from exercising any of the enumerated powers that are prohibited under Revenue Ruling 2004-

⁴⁴ See Parent Trust Agreement at § 6.14.

⁴⁵ See Parent Trust Agreement at § 3.2(a).

⁴⁶ See Operating Trust Agreements at § 5.3(b).

⁴⁷ See Operating Trust Agreements at § 3.2(c) & 5.3(b) (flush language).

86.⁴⁸ Finally, as noted above, the Beneficial Owners generally have no right or power to make decisions for or to operate or manage the Operating Trusts.⁴⁹

We believe that the material provisions of the Operating Trust Agreements that are not included in the trust arrangement described in Revenue Ruling 2004-86 are consistent with treating the Operating Trusts as investment trusts. These provisions include, but are not limited to: (i) the power to sell the Operating Trusts' corpus; (ii) the potential termination of the Operating Trusts through any event that would cause a Transfer Distribution; and (iii) the potential transfer of a Property to the Operating Partnership pursuant to the FMV Option provided in the Operating Trust Agreements.

The power granted under the Operating Trust Agreements to sell the Properties should not be viewed as a power to vary the Operating Trusts' investments. Immediately after a sale of the Properties, the sales proceeds must be distributed to the Beneficial Owners and the Operating Trusts will terminate.⁵⁰ The Manager does not have the power to purchase replacement real estate investments with the proceeds from the sale of the Properties.⁵¹

The sale of the Properties under these circumstances is consistent with the objective of achieving an investment return on the assets comprising the initial trust estate when the Beneficial Owners acquired their interests therein. Because the sales proceeds cannot be reinvested by the Manager, the Operating Trust Agreements do not confer the power to "better" the investments in the Operating Trusts by taking advantage of market variations. The assets that can be held by the Operating Trusts are restricted to the Properties, personal property necessary or incidental to ownership and operation of the Properties, and the cash reserves that accumulate between quarterly distributions.⁵² All cash reserves will be invested only in the types of debt instruments expressly permitted under Revenue Ruling 2004-86.⁵³ Accordingly, providing the Manager with the discretion concerning the timing and amount of the sale of the Properties should not prevent the Operating Trusts from being treated as investment trusts that are classified as "trusts" for federal income tax purposes.

Although no direct authority exists regarding the use of a Transfer Distribution in connection with a fixed investment trust, we believe the Transfer Distribution as used in the Operating Trust Agreements is consistent with treating the Operating Trusts as fixed investment trusts for federal income tax purposes. We believe that the events that would cause a Transfer Distribution are not in any way expected or viewed as likely to occur, which supports the passive and fixed nature of the Operating Trusts. Moreover, the Parent Trust (on behalf of the Operating Trusts) has represented that no Transfer Distribution is currently intended or anticipated and that to the knowledge of the Depositor, Parent Trust, the Operating Trusts, and Manager an event which would cause a Transfer Distribution with respect to any of the assets of the Operating Trusts is not expected. The Parent Trust (on behalf of the Operating Trusts) also represented that it is the belief of the Depositor,

⁴⁸ *Id.*

⁴⁹ See Operating Trust Agreements at § 6.13.

⁵⁰ See Operating Trust Agreements at §§ 7.2 & 9.3.

⁵¹ See Operating Trust Agreements at § 7.2.

⁵² *Id.*

⁵³ *Id.*

Parent Trust, the Operating Trusts, and Manager that the occurrence of a Transfer Distribution would be unanticipated.

In addition, the FMV Option provided in the Operating Trust Agreements should not be viewed as a power to vary the Operating Trusts' investments. In the case of the FMV Option, such a transfer is only exercisable for a purchase price equal to the then fair market value of a Purchaser's Interest at such time in exchange for OP Units (or cash, as the case may be).⁵⁴ The option price is tied directly to the fair market value as of the option exercise date as determined by an appraisal to be obtained at such time (adjusted for applicable liabilities, certain adjustments, and customary pro rations) and is not nominal in relation to such value or discounted in any way.⁵⁵ The FMV Option is discussed in further detail in Part VI.E below.

Although distinctions exist between the Operating Trust Agreements and the trust arrangement described in Revenue Ruling 2004-86, we believe these distinctions are not material. These distinctions include, but are not limited to: (i) the ongoing role of the Company or its affiliate as a Manager functioning in a role similar to a trust manager; (ii) the Operating Trusts' potential acceptance of multiple contributions over time, rather than through a single contribution; and (iii) the conversion of the Operating Trusts for tax purposes from a disregarded entity into an investment trust prior to the admission of purchasers. We believe that, like the material provisions discussed above, these provisions are consistent with, rather than contrary to, the analysis in Revenue Ruling 2004-86 for the reasons set forth below.

First, the Company's (or its affiliate's) ongoing role as the Manager should not be viewed as inconsistent with the analysis in Revenue Ruling 2004-86 or the case law because the Manager's powers are limited to those permitted to be exercised by a trustee of a fixed investment trust.

Second, the Operating Trusts' potential acceptance of multiple contributions over time should not be viewed as raising additional capital (which is prohibited under Revenue Ruling 2004-86) because the capital of the Operating Trusts is not increasing. The fact that 100% of the Interests may be sold in multiple closings rather than in a single closing is driven by practical considerations and does not provide a basis for distinguishing a trust from a partnership. In addition, because the structure of the Offering is fixed, if there were any additional contributions, such additional contributions would not enable the Operating Trusts to benefit from market fluctuations over time. Finally, although the Operating Trust Agreements are flexible in this regard, it is the intention of the parties that the Offering will only syndicate Interests in the Parent Trust to Purchasers (i.e., not Interests in the Operating Trusts).⁵⁶

Third, prior to conversion, the Operating Trusts are not recognized as entities separate from

⁵⁴ See Operating Trust Agreements at §§ 10.1, 10.2, & 10.4.

⁵⁵ See Operating Trust Agreements at § 10.4.

⁵⁶ See Operating Trust Agreements at § 6.1 (regarding the "Offering DST," as defined in the Operating Trust Agreements).

the Company (or its affiliate) for federal income tax purposes.⁵⁷ Accordingly, the conversion feature of the Operating Trusts from disregarded entities to fixed investment trusts should be viewed on its own as a mere formation of the Operating Trusts as fixed investments trust in a manner that is not inconsistent with the analysis under Revenue Ruling 2004-86.

Because none of these provisions permit the Trustees or the Manager to vary the investments of the Operating Trusts in a manner that results in the Beneficial Owners improving their investment results based on variations in the market, we believe they are consistent with treating the Operating Trusts as fixed investment trusts.

d. The Master Lease.

Under the terms of the Master Lease, the Master Tenant has the right to make any improvements or alterations to the Properties, provided that such improvements or alterations (i) would not diminish, by more than a *de minimis* amount, the current or residual value, remaining useful life or utility of the Properties immediately prior to such improvements or alterations, (ii) would not cause the applicable Property to become a “limited use” property within the meaning of Revenue Procedure 2001-28, (iii) would not otherwise cause the Master Lease to be treated as other than a “true lease” for U.S. federal income tax purposes, or (iv) are not more than minor, non-structural improvements or alterations (except as required by law) within the meaning of Revenue Ruling 2004-86.⁵⁸ The Master Tenant has the right, at the Master Tenant’s full cost, exposure and risk, to make structural and non-structural improvements or alterations to the Properties, provided that Master Tenant shall provide the Trust 10 days’ prior written notice of any such improvement or alteration that constitutes more than non-structural repairs and maintenance consistent with keeping the Properties in good repair.⁵⁹

However, unlike the Master Tenant, at any time that any of the Operating Trusts is a DST, such Operating Trust shall not have the right, power or ability to make more than minor non-structural modifications to the applicable Property. Under Revenue Ruling 2004-86, the trustee is prohibited from making more than minor non-structural modifications to the property.⁶⁰ We believe, however, that the alteration rights provided to the Master Tenant under the Master Lease should not be attributed to the Manager and, therefore, are not inconsistent with treating the Operating Trusts as investment trusts for federal income tax purposes. The terms of the Master Lease do not provide the Manager with the unfettered power to make structural modifications to the applicable Property; such alteration rights are held solely by the Master Tenant. Moreover, the cost of any such alterations or additions will be born solely by the Master Tenant, not the Operating Trusts. Although not free from doubt, we believe that the alteration rights provided to the Master Tenant under the Master Lease should not violate the intent and purpose of Revenue Ruling 2004-86 or the underlying cases and rulings governing whether the Manager possesses an

⁵⁷ See Operating Trust Agreements at § 3.2(a).

⁵⁸ See Master Lease at Par. 6.A.

⁵⁹ *Id.*

⁶⁰ See Master Lease at Par. 6.D.

impermissible right to vary the investments of the Parent Trust or the Operating Trusts.

2. Although the Parent Trust and the Operating Trusts have more than one class of ownership interests, the Trusts nonetheless should be described as investment trusts classified as “trusts” because they were formed to facilitate direct investment in the Properties and the repurchase of the Class 2 Beneficial Interests is incidental to that purpose.

The often cited principle that the economic substance of a transaction, and not its mere form, governs the tax treatment of a given transaction is a well-established doctrine of federal tax law.⁶¹ The Treasury Regulations describing an investment trust apply this principle by providing that a trust arrangement that otherwise would be treated as an investment trust absent multiple classes of ownership interests nonetheless will be so treated if the multiple classes of ownership interests are incidental to the investment purpose of the trust.⁶² The Treasury Regulations illustrate by example the types of different ownership rights that would be merely incidental to a trust’s investment purpose.

The first example illustrates a circumstance whereby the existence of two classes of ownership interests in a trust is incidental to the trust’s purpose of facilitating direct investment in a portfolio of residential mortgages.⁶³ The originator of the mortgage portfolio transferred the mortgages to a bank under a trust agreement, retained the class D beneficial ownership interest in the trust and sold to investors the class C beneficial ownership interests in the trust. The two classes (class C and class D) are identical except that, in the event of a default on the underlying mortgages, the payment rights of the class D interests are subordinate to the rights of the class C certificate holders. The example observes that the interests of the beneficial holders in the aggregate, however, is substantially equivalent to an undivided ownership interest in the mortgage pool, coupled with a limited recourse guarantee running from the originator to the class C beneficial holders. Thus, the difference in rights between the class D and class C beneficial ownership interests is present simply to facilitate the investment by the class C beneficial owners in the trust’s assets.

Likewise, another example illustrates a circumstance where multiple classes of ownership interests in a trust merely facilitate direct investment in the assets held by the trust.⁶⁴ Purchasers purchased trust certificates evidencing the right to receive a particular payment with respect to a specific bond that is included in a bond portfolio held by the trust. Because the purchase of stripped interests in bonds and coupons are treated as separate bonds for

⁶¹ See, e.g., *Gregory v. Helvering*, 293 U.S. 465, 467, 470 (1935) (holding that “the reorganization attempted was without substance and must be disregarded”); *Comm’r v. Court Holding Co.*, 324 U.S. 331, 334 (1945) (stating that “the incidence of taxation depends on the substance of a transaction. The tax consequences which arise from gains from a sale of property are not finally to be determined solely by the means employed to transfer legal title.”); *Weiss v. Stearn*, 265 U.S. 242, 254 (1924) (stating that the court “must regard matters of substance and not mere form”); *Higgins v. Smith*, 308 U.S. 473, 477 (1940) (holding that the Government may look at “actualities” and disregard the form of a transaction if it is “unreal” or a “sham”).

⁶² Treas. Reg. § 301.7701-4(c).

⁶³ See Treas. Reg. § 301.7701-4(c)(2) Example 2.

⁶⁴ See Treas. Reg. § 301.7701-4(c)(2) Example 4.

federal income tax purposes, the example states that the multiple classes simply provide each certificate holder with a direct interest in what would be treated as a separate bond. Because the certificate holders acquired an interest in the trust's assets that was similar to what the certificate holder could acquire by direct investment, the multiple classes of ownership interest will not prevent the trust arrangement from being treated as a trust rather than a business entity for federal income tax purposes.

It is possible that the IRS may assert that the existence and redemption of the Depositor's and the Parent Trust's Class 2 Beneficial Interests give rise to multiple classes of ownership interests even though the rights of Parent Trust's Class 2 Beneficial Owner otherwise will be identical to the rights of the Parent Trust's Class 1 Beneficial Owners immediately upon a Purchaser investing in the Parent Trust.⁶⁵ Consistent with the facts in the examples discussed above, however, we believe that the existence of the Class 2 Beneficial Interests and the redemption right of the Depositor and the Parent Trust with respect to such Class 2 Beneficial Interests also should be treated as existing simply to facilitate the Beneficial Owners' investment in the Properties through the Class 1 Beneficial Interests.

Immediately upon the issuance of the Conversion Notice, which must occur prior to a Beneficial Owner investing in the Parent Trust, the rights of a Class 2 Beneficial Owner (other than the redemption right) will be identical to the rights of the Class 1 Beneficial Owners.⁶⁶ The redemption simply replaces the Depositor's and the Parent Trust's pro rata ownership interest in the Trust and its underlying assets with that of the Beneficial Owners. This same result could be accomplished by either the Depositor or the Parent Trust selling directly to the Beneficial Owners its Class 2 Beneficial Interest or the Depositor or the Parent Trust selling to the Beneficial Owners a direct interest in the Properties followed by the Beneficial Owners' contribution of the Properties to the Parent Trust. Because under either scenario the result is the same, and in neither situation is there any variation in the underlying assets owned by the Parent Trust, we believe that the formal mechanism by which the Parent Trust's interest in the Properties is transferred to the Class 1 Beneficial Owners should not affect the tax consequences of the underlying transaction.

This analysis is consistent with the IRS position in Revenue Ruling 2004-86 that its conclusions would have been the same regardless of whether the trust property (Blackacre) had been sold directly to Dan and Michelle, and then contributed to the trust or, as in the facts in the ruling, contributed to the trust followed by a sale of an interest in the trust to Dan and Michelle. The rights of the Depositor or the Parent Trust with respect to the underlying assets in the Trusts, i.e., the Properties, are no different vis-à-vis a Class 1 Beneficial Owner for as long as the Depositor or the Parent Trust retains any Class 2 Beneficial Interests.

The use of this formal mechanism of redemption is the economic equivalent of the Beneficial Owners purchasing a direct interest in the Properties from the Depositor or the Parent Trust and then contributing the purchased interests in the Properties to the Trust.

⁶⁵ See Trust Agreements § 6.1 & 6.12.

⁶⁶ See Trust Agreements § 6.12.

Under these circumstances, it is our view that no impermissible multiple classes of ownership interests in the Trust should exist.

Based on the foregoing discussion, the Trusts: (i) should each be recognized as an entity separate from the Beneficial Owners for federal income tax purposes, and (ii) should each be treated as investment trusts described in Treasury Regulations Section 301.7701-4(c). As a result, the Trusts should each be classified as a “trust” under Treasury Regulations Section 301.7701-4(a).

II. The Purchasers, as Beneficial Owners in the Parent Trust, should be treated as “grantors” of the Parent Trust and the Operating Trusts.

A “grantor” of a trust includes any person that either creates a trust or directly or indirectly makes a gratuitous transfer of property, including cash, to a trust.⁶⁷ A gratuitous transfer to a trust includes a transfer of cash to the trust in exchange solely for an interest in the trust.⁶⁸ The term “grantor” also includes any person who acquires an interest in a trust from a “grantor” of the trust if the interest acquired is an interest in an investment trust described in Treasury Regulations Section 301.7701-4(c).⁶⁹

The Beneficial Owners will transfer cash to the Parent Trust in exchange solely for an interest therein. Because receiving an interest in the Parent Trust is not treated as the receipt of property, the Beneficial Owners should be treated as making a gratuitous transfer to the Parent Trust. Thus, the Beneficial Owners should be treated as “grantors” of the Parent Trust. Likewise, in light of the Operating Trusts’ status as fixed investment trusts for federal income tax purposes, the Beneficial Owners should be treated as indirectly making gratuitous transfers to the Operating Trusts.

III. As “grantors,” the Beneficial Owners should be treated as owning an undivided fractional interest in the Properties for federal income tax purposes.

A “grantor” that is treated as the owner of an undivided fractional interest of the assets in a trust under the provisions of subchapter J of the Code also is treated as owning an undivided fractional interest of such assets for all federal income tax purposes.⁷⁰ Sections 673 through 677 set forth rules for determining when the grantor or another person is treated as the owner of any portion of a trust.⁷¹ Under Section 673, a grantor is treated as owning any portion of a trust in which the grantor has a reversionary interest in either the trust assets or the income therefrom if, as of the inception of that portion of the trust, the value of such interest exceeds 5% of the value of such portion. Under Section 677, a grantor is treated as the owner of any portion of a trust whose income, without the approval or consent of any adverse party is, or in the discretion of the grantor or a non-adverse party or both, may be distributed to the grantor or held or accumulated for future distribution to

⁶⁷ Treas. Reg. § 1.671-2(e)(1).

⁶⁸ Treas. Reg. § 1.671-2(e)(1), (2).

⁶⁹ Treas. Reg. § 1.671-2(e)(3).

⁷⁰ See Rev. Rul. 88-103, 1988-2 C.B. 304; Rev. Rul. 85-45, 1985-1 C.B. 183; and Rev. Rul. 85-13, 1985-1 C.B. 184; *see also* Treas. Reg. § 1.1001-2(c), Example 5.

⁷¹ Treas. Reg. § 1.671-2(a).

the grantor.⁷²

Revenue Ruling 2004-86 also considered whether the purchase of interests in the trust arrangement by Dan and Michelle would be treated as an acquisition of interests in the real property (Blackacre) owned by the trust (in exchange for their interests in Whiteacre and Greenacre that were conveyed to John). The IRS concluded that Dan and Michelle should be treated as grantors of the trust when they acquire their interests in the trust from John, who had formed the trust. The IRS also concluded that, because Dan and Michelle have the right to distributions of all the income of the trust attributable to their undivided fractional interests, they should be treated under Section 677 as the owners of an aliquot portion of the trust, and all income, deductions and credits attributable to that portion are includible by Dan and Michelle in computing their taxable income. Because the owner of an undivided fractional interest of a trust is considered to own the trust assets attributable to that interest for federal income tax purposes, the IRS treated Dan and Michelle as each owning an undivided fractional interest in Blackacre for federal income tax purposes.

The IRS's treatment of Dan and Michelle as the owners of the trust's property for purposes of Section 1031 is consistent with the treatment by the IRS of grantors of a trust for Section 1033 purposes. Section 1033 is similar to Section 1031 in that it confers nonrecognition treatment on the involuntary conversion of property into similar or related-use property.⁷³ In several rulings, the IRS concluded that, because the owner of a grantor trust is treated as the owner of the trust's property for federal income tax purposes, whether replacement property was purchased by a grantor or the grantor's trust is of no consequence for Section 1033 purposes.⁷⁴

Several of the rights accorded, directly and indirectly, under the Trust Agreements to the Beneficial Owners as "grantors" should result in the Beneficial Owners being treated as owning direct interests in the Properties for federal income tax purposes. Generally, the Beneficial Owners have the right to the distribution of all income received by the Parent Trust from the Operating Trusts without the approval, consent, or exercise of discretion by any person.⁷⁵ Additionally, the Beneficial Owners have a total reversionary interest in the assets of the Parent Trust. These rights of the Beneficial Owners as grantors should result in the Beneficial Owners being treated as owning direct interests in the Parent Trust's assets (i.e., the Operating Trusts and the underlying interests in the Properties) under Sections 673 and 677 and therefore also for all federal income tax purposes, including Section 1031.

IV. The Interests should not be treated as securities for purposes of Section 1031.

If the Interests were determined to be securities for purposes of Section 1031, an investor would recognize gain, if any, on the exchange of property for an Interest to the extent the fair market value of the Interest received in the exchange exceeded the adjusted tax basis

⁷² Code § 677(a). For purposes of this provision, a trustee who lacks an economic interest in the assets of a trust is not an adverse party. See Treas. Reg. § 1.672(a)-1(a).

⁷³ See Code § 1033(a).

⁷⁴ See Rev. Rul. 88-103, 1988-2 C.B. 304; Rev. Rul. 70-376, 1970-2 C.B. 164.

⁷⁵ See Trust Agreements at § 7.2.

of the relinquished property.⁷⁶ For the reasons discussed below, the Interests should not constitute securities for purposes of Section 1031.⁷⁷

A. Legislative History of Section 1031.

The exclusion of securities from Section 1031 was added to the predecessor to Section 1031 in 1923.⁷⁸ The legislation amended the predecessor to Section 1031 to include the following italicized language:

When any such property held for *investment or for* productive use in trade or business (not including stock-in-trade or other property held primarily for sale, *and in the case of property held for investment not including stock, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest*), is exchanged for property of a like kind or use.

The reason for the addition of the language above was to prevent taxpayers from using the predecessor to Section 1031 to exchange investment securities, such as stocks and bonds, on a tax free basis. A letter from the Secretary of Treasury dated January 13, 1923, provided as follows:

The revenue act of 1921 provides, in section 202, for the exchange of property held for investment for other property held for investment for other property of a like kind without the realization of taxable income. Under this section, a taxpayer who purchases a bond of \$1,000 which appreciates in value may exchange that bond for another bond of the value of \$1,000, together with \$100 in cash (the \$100 in cash representing the increase in the value of the bond while held by the taxpayer), without the realization of taxable income. This provision of the act is being widely abused. Many brokers, investment houses and bond houses have established exchange departments and are advertising that they will exchange securities for their customers in such a manner as to result in no taxable gain. Under this section, therefore, taxpayers owning securities which have appreciated in value are exchanging them for other securities and at the same time receiving a cash consideration without the realization of taxable income, but if the securities have fallen in value since

⁷⁶ Code § 1001.

⁷⁷ Although the Interests may be “securities” for purposes of the Securities Act of 1933 or the Securities Exchange Act of 1934, it should be noted that this is not the relevant test for determining whether the Interests are securities for federal income tax purposes but, rather, only the starting point for the analysis.

⁷⁸ See, e.g., H.R. 13774, Public No. 545, 67th Cong., 4th Sess., ch. 294.

acquisition will sell them and in computing net income deduct the amount of the loss on sale. This result is manifestly unfair and destructive of the revenues. The Treasury accordingly urges that the law be amended so as to limit the cases in which securities may be exchanged for other securities without the realization of taxable income to those cases where the exchange is in connection with the reorganization, consolidation or merger of one or more corporations.⁷⁹

In response to the concern expressed in the letter above, Congress amended the predecessor to Section 1031 to exclude securities.⁸⁰

B. Use of the term “securities” in the Code.

The term “securities” is not defined in either Section 1031 or the Treasury Regulations promulgated thereunder. The term “securities” is narrowly defined in other Sections of the Code, including the following:

- Section 165(g) (defining the term “security” as “(A) a share of stock in a corporation; (B) a right to subscribe for, or to receive, a share of stock in a corporation; or (C) a bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form . . .”);
- Section 402(e)(4)(E)(i) (providing that “[t]he term ‘securities’ means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form”);
- Former Section 1083(f) (stating that “the term ‘stock or securities’ means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures and evidences of indebtedness (including any evidence of an interest in or right to subscribe to or purchase any of the foregoing);⁸¹ and
- Section 1236(c) (providing that “the term ‘security’ means any share of stock in any corporation, certificate of stock or interest in any corporation, note, bond, debenture, or evidence of indebtedness, or any evidence of an interest in or right to subscribe to or purchase any of the foregoing”).

The Interests clearly should not be considered “securities” under any of the above definitions. Although the foregoing Sections are not expressly applicable for purposes of

⁷⁹ H.R. Rep. No. 67-1432, at 1-2 (1923); S. Rep. No. 67-1113, at 1-2 (1923), *reprinted in* 1939-1 CB (Part 2) 845-46.

⁸⁰ H.R. 13774, Public No. 545, 67th Cong., 4th Sess., ch. 294.

⁸¹ Code § 1083 was repealed by the Gulf Opportunity Zone Act of 2005. *See* Pub. L. No. 109-135, § 402(a)(1), 119 Stat. 2577, 2610 (2005).

Section 1031, the IRS has indicated that the scope of the term “securities” (as used in such other Sections) can be relevant by analogy for purposes of Section 1031.⁸²

In addition, there are instances in the Code where a term is defined by specific reference to federal securities law, such as the following examples:

- Section 67(c)(2)(B)(i)(I) (“continuously offered pursuant to a public offering (within the meaning of Section 4 of the Securities Act of 1933, as amended)”);
- Section 83(c)(3) (“[s]o long as the sale of property at a profit could subject a person to suit under Section 16(b) of the Securities Exchange Act of 1934”);
- Section 162(m)(2) (“the term ‘publicly held corporation’ means any corporation issuing any class of common equity securities required to be registered under Section 12 of the Securities Exchange Act of 1934”);
- Section 277(b)(3) (“which for each day of any taxable year is a national securities exchange subject to regulation under the Securities Exchange Act of 1934 or a contract market subject to regulation under the Commodity Exchange Act”); and
- Section 409(e)(4)(A) (“a class of securities required to be registered under Section 12 of the Securities Exchange Act of 1934”).

In *Plow Realty Co. of Texas v. Commissioner*,⁸³ the Tax Court addressed whether two mineral deeds, each conveying an undivided one-eighth interest in oil, gas, sulphur, and other minerals, were “securities” for purposes of determining whether the gains from such conveyances constituted “personal holding company income” under Section 502(b) of the Internal Revenue Code of 1939. If such gains were “securities,” and hence, “personal holding company income” as defined under the Internal Revenue Code of 1939, the gains would be subject to a 25% surtax.

The taxpayer contended that the mineral deeds were conveyances of an interest in real estate and not a sale of “securities.” The Tax Court agreed:

Under securities and exchange acts mineral deeds and assignments of mineral rights have been held to be “securities.” But here we have a revenue statute and not a question of the exercise of police power by a state or the National Government for the protection of the public. The respondent’s regulations define “stock or securities” in broad and comprehensive language, but even so, we do not think the instruments herein can be classified as

⁸² See, e.g., I.R.S. Gen. Couns. Mem. 35242 (Feb. 16, 1973).

⁸³ 4 T.C. 600 (1945).

securities under the revenue act. What we have here is two deeds of conveyance evidencing two private sales of undivided interests in realty, under which title passed to and became vested in the grantees. Such sales do not, in our opinion, under the circumstances here constitute a sale of securities under respondent's regulations.⁸⁴

Based on this reasoning, the Tax Court held that the gains realized by the taxpayer upon the conveyance of the mineral deeds were not "personal holding company income" because the mineral deeds did not convey "securities."

In General Counsel Memorandum 35242,⁸⁵ the IRS stated that "[a]lthough [the definitions under Sections 165(g), 402(a)(3), 1083(f), and 1236(c)] do not control for purposes of Code §1031, we believe it persuasive that Congress has consistently defined the term 'securities' in a limited sense." Accordingly, the IRS determined that an exchange of whisky receipts for other whisky receipts qualified for nonrecognition treatment under Section 1031(a).

Equally important, General Counsel Memorandum 35242 determined that the whisky receipts were not "securities" for purposes of Section 1031 even though the Securities and Exchange Commission believed such receipts constituted securities under the Securities Act of 1933 and the Securities Exchange Act of 1934. This conclusion is consistent with the Tax Court's position that property which constitutes a security under applicable securities laws is not necessarily a "security" for purposes of a specific provision of the Code.⁸⁶ The IRS further noted, in the proposed revenue ruling attached to the general counsel memorandum, that the "securities" exception to nonrecognition treatment was added to "preclude brokers, investment houses, and bond houses from arranging the tax free exchanges of appreciated securities for their clients."⁸⁷

Based on the narrow scope of the definition of "securities" for various Code provisions, the IRS endorsement of this narrow definition in the Section 1031 context, and the Tax Court's conclusion that the definition of a "security" under applicable securities laws is irrelevant, we believe that the Interests should not be treated as securities for Section 1031 purposes.

V. The Interests should not be treated as certificates of trust or beneficial interests for purposes of Section 1031.

The non-recognition rules of Section 1031 do not apply to an exchange of certificates of

⁸⁴ *Id.* at 608 (internal citation omitted).

⁸⁵ I.R.S. Gen. Couns. Mem. 35242 (Feb. 16, 1973).

⁸⁶ *Plow Realty Co.*, 4 T.C. at 608 (concluding that mineral deeds were not securities for purposes of the predecessor to Code § 543 (personal holding company income) despite the fact that they were securities under securities and exchange acts).

⁸⁷ I.R.S. Gen. Couns. Mem. 35242 (Feb. 16, 1973), (*citing* S. Rep. No. 67-1113 (1927), reprinted in 1939-1 (Part 2) C.B. 845-46).

trust or beneficial interests.⁸⁸ However, as concluded above, the Trusts should be treated as fixed investment trusts within the meaning of Treasury Regulations Section 301.7701-4(c). Therefore, each of the Parent Trust and the Operating Trusts is considered to be a disregarded entity and the Beneficial Owners should be viewed as owning an underlying fractional interest in the Properties (as opposed to an interest in the Parent Trust and/or the Operating Trusts for federal income tax purposes) because, for federal income tax purposes, the Parent Trust and the Operating Trusts are disregarded and viewed as if they do not exist. Thus, the Interests should not be viewed as prohibited certificates of trust or beneficial interests for purposes of Section 1031.

VI. The Master Lease should be treated as a true lease and not a financing for federal income tax purposes.

A. Generally.

We believe that the Master Lease has the hallmarks of a bona fide, true lease and, therefore, should be treated as such for federal income tax purposes. The economic substance of a leasing transaction is analyzed in light of all of the facts and circumstances.⁸⁹ Transactions structured as leases may be recharacterized for federal income tax purposes to reflect their economic substance.⁹⁰ For example, in appropriate circumstances a purported lease may be recharacterized as a conditional sales contract. Recharacterization of the Master Lease as a financing or other arrangements for federal income tax purposes would have significant adverse tax consequences. For example, if the Master Lease were recharacterized as a financing, the Master Tenant would be treated as the owner of the Properties for federal income tax purposes. As a result, a Purchaser attempting to participate in a Section 1031 Exchange would not be treated as having received qualified replacement property when the Purchaser acquired his or her Interest because the Purchaser would be treated as having made a loan to the Master Tenant. As the owner of the Properties for federal income tax purposes, the Master Tenant, rather than the Purchasers, would be entitled to claim any depreciation deductions. To the extent that payments of “rent” were recharacterized as payments of interest and principal, the payment of principal would not be treated as the receipt of taxable income by the Purchasers and would not be deductible by the Master Tenant. All of these, and other, consequences could have a significant impact on the federal income tax consequences of an investment in the Properties.

⁸⁸ Treas. Reg. § 1.1031(a)-1(a)(1)(v); former Code § 1031(a)(2)(E) (1984). As noted above, although the specific language providing for non-qualification (for Section 1031 purposes) of interests in a partnership, securities, certificates of trust, and beneficial interests has been eliminated from the statute, an analysis of these terms remains relevant to the analysis and conclusion set forth herein that the Beneficial Owners should be treated as owning qualifying real property for federal income tax purposes.

⁸⁹ Joint Committee on Taxation, Technical Explanation of the Revenue Provisions of the “Reconciliation Act of 2010,” as Amended, in Combination with the “Patient Protection and Affordable Care Act,” 153 & n. 350 (2010).

⁹⁰ See, e.g., *Frank Lyon Co. v. United States*, 435 U.S. 561 (1978), *rev’g* 536 F.2d 746 (8th Cir. 1976); *Rice’s Toyota World, Inc. v. Comm’r*, 752 F.2d 89 (4th Cir. 1985); *Helvering v. F. & R. Lazarus & Co.*, 308 U.S. 252 (1939); *Emershaw v. Comm’r*, T.C. Memo 1990-246, *aff’d* 949 F.2d 841 (6th Cir. 1991).

B. Revenue Procedure 2001-28.

It is possible that the Master Lease could be treated as a financing rather than a true lease for federal income tax purposes. There is, however, no bright-line test for making this determination. This issue will be analyzed in the context of Revenue Procedure 2001-28,⁹¹ which sets forth guidelines for obtaining an advance ruling that a lease constitutes a true lease (and not a financing) for federal income tax purposes, as well as the federal income tax case law governing this area.

In recent cases, courts have conducted a two-part analysis to determine whether the purported lease should be respected for federal income tax purposes, including an analysis of whether (i) the purported lease should be disregarded as a “sham” transaction and, if not, (ii) whether the lessor retained a sufficient amount of the traditional benefits and burdens of ownership of the property. A leasing transaction will be deemed a sham, and thus disregarded, if it was entered into for the sole purpose of obtaining tax benefits and the transaction is devoid of any reasonable opportunity for economic profit (exclusive of tax benefits). A transaction is not a sham if there is either a business purpose or economic substance to the transaction.⁹² The business purpose test has been described as a subjective analysis examining the motivations for entering into a transaction,⁹³ while the economic substance analysis is described as an objective analysis focusing on whether the transaction has a reasonable opportunity of producing a profit (exclusive of tax benefits).⁹⁴ If a transaction is shown not to be a sham, the lessor must additionally retain sufficient benefits and burdens of ownership to be regarded as the owner for federal income tax purposes.⁹⁵ The essence of the courts’ benefits and burdens analysis is an examination of whether the purported lessor is subject to the risks of ownership (i.e., downside) and will enjoy the profits of the property (i.e., upside).

Revenue Procedure 2001-28⁹⁶ sets forth advance ruling guidelines for “true lease” status. The Parent Trust has not sought, and does not expect to request, a ruling from the IRS under Revenue Procedure 2001-28. These ruling guidelines provide certain criteria that the IRS will require to be satisfied in order to issue a private letter ruling that a lease is a true lease for federal income tax purposes. In the event of an examination by the IRS, the IRS and, ultimately, the courts of applicable jurisdiction, would consider these ruling

⁹¹ 2001-1 C.B. 1156.

⁹² See *Rice’s Toyota World*, 752 F.2d at 91; *Van Roekel v. Comm’r*, T.C. Memo 1989-74, *app. dism’d* 905 F.2d 80 (5th Cir. 1990); *Offermann v. Comm’r*, T.C. Memo 1988-236; *L. W. Hardy Co. Inc. v. Comm’r*, T.C. Memo 1987-63; *Greenbaum v. Comm’r*, T.C. Memo 1987-222; *Torres v. Comm’r*, 88 T.C. 702 (1987); *Mukerji v. Comm’r*, 87 T.C. 926 (1986).

⁹³ *Levy v. Comm’r*, 91 T.C. 838, 854 (1988).

⁹⁴ *Id.* at 838; *Rubin v. Comm’r*, T.C. Memo 1989-484; *Moser v. Comm’r*, T.C. Memo 1989-142, *aff’d* 914 F.2d 1040 (8th Cir. 1990); *Van Roekel v. Comm’r*, T.C. Memo 1989-74; *Offermann v. Comm’r*, T.C. Memo 1988-236; *Larsen v. Comm’r*, 89 T.C. 1229 (1987), *aff’d & rev’d sub nom Casebeer v. Comm’r*, 909 F.2d 1360 (9th Cir. 1990).

⁹⁵ See *Emershaw v. Comm’r*, T.C. Memo 1990-246, *aff’d* 949 F.2d 841 (6th Cir. 1991); *Rubin v. Comm’r*, T.C. Memo 1989-484; *Pearlstein v. Comm’r*, T.C. Memo 1989-621; *Moser v. Comm’r*, T.C. Memo 1989-142, *aff’d* 914 F.2d 1040 (8th Cir. 1990); *Van Roekel v. Comm’r*, T.C. Memo 1989-74; *Levy*, 91 T.C. 838.

⁹⁶ 2001-1 C.B. 1156. The guidelines were designed with equipment, rather than real estate, leveraged leases as a primary concern.

guidelines, together with existing cases and other rulings, in determining whether the Master Lease qualifies as a true lease for federal income tax purposes. However, we do not believe that strict compliance with Revenue Procedure 2001-28 is required to conclude that the Master Lease should be characterized as a true lease for federal income tax purposes.

Rather, we believe that satisfying most of the material ruling guidelines should be sufficient for this purpose. Accordingly, the following discussion reviews the factors considered relevant by the IRS under Revenue Procedure 2001-28 guidelines, as well as the relevant case law.⁹⁷

C. Minimum Unconditional At-Risk Investment.

Under the Revenue Procedure, the lessor must make a minimum unconditional “at risk” investment in the property (the “**Minimum Investment**”) when the lease begins, must maintain such Minimum Investment throughout the entire lease term, and such Minimum Investment must remain at the end of the lease term. The Minimum Investment must be an equity investment (the “**Equity Investment**”) that includes only consideration paid, and personal liability incurred, by the lessor to purchase the property. The net worth of the lessor must be sufficient to satisfy any such personal liability.⁹⁸ We believe that satisfying the required Minimum Investment pursuant to the guidelines is also indicative of a lessor’s retention of downside risk as required under the framework established by the case law.⁹⁹

1. Initial Minimum Investment.

When the property is first placed in service or use by the lessee, the Minimum Investment must be equal to at least 20% of the cost of the property. The Minimum Investment must be unconditional: that is, the lessor must not be entitled to a return of any portion of the Minimum Investment through any arrangement, directly or indirectly, with the lessee, a shareholder of the lessee, or any party related to the lessee (within the meaning of Section 318 of the Code) (the “**Lessee Group**”).¹⁰⁰ Each of the Purchasers will acquire his or her Interest in the Properties (through the Parent Trust and the Operating Trusts) for an unconditional equity investment equal to 100% of the cost of his or her Interest in the Properties. None of the Purchasers will be entitled to demand the return of his or her Equity Investment from the Parent Trust, or any tenant, or any party related to such parties, either through a put option, a guaranty of residual value, or other arrangement with such persons.

2. Maintenance of Minimum Investment.

⁹⁷ The factors enumerated in the case law are relevant to the guidelines as set forth in Revenue Procedure 2001-28; thus, for purposes of this analysis, we refer to the case law factors within the framework of the guidelines.

⁹⁸ Rev. Proc. 2001-28, 2001-1 C.B. 1156 § 4.01.

⁹⁹ For example, courts have treated a lessor as the owner of property when the lessor has made cash investments substantially smaller than the 20% required by the Revenue Procedure 2001-28 guidelines. See, e.g., *Emershaw v. Comm’r*, T.C. Memo 1990-246 (6% investment); *Greenbaum v. Comm’r*, T.C. Memo 1987-222 (7% investment); *L. W. Hardy Co. Inc. v. Comm’r*, T.C. Memo 1987-63 (17% investment).

¹⁰⁰ Rev. Proc. 2001-28, 2001-1 C.B. 1156 at § 4.01(1).

The Minimum Investment must remain equal to at least 20% of the cost of the property at all times throughout the entire lease term. That is, the excess of the cumulative payments required to have been paid by the lessee to or for the lessor over the cumulative disbursements required to have been paid by or for the lessor in connection with the ownership of the property must never exceed the sum of (i) any excess of the lessor's initial Equity Investment over 20% of the cost of the property plus (ii) the cumulative pro rata portion of the projected profit from the transaction (exclusive of tax benefits).¹⁰¹ The Parent Trust and the Manager have represented to us that they anticipate that the equity invested in the Properties by the Purchasers will equal at least 20% of the cost of the Properties to the relevant Trust at all times throughout the terms of the Master Lease (disregarding fluctuations in value) and that, to their knowledge, no plan or intention exists to reduce such equity through distributions or refinancings of the Properties or otherwise. It is impossible, however, to determine at this time whether the economic performance of the Properties will comply with the above stated requirement of Revenue Procedure 2001-28. Accordingly, this estimation alone neither weighs in support nor against characterization of the Master Lease as a true lease for federal income tax purposes.

3. Residual Investment.

Under Revenue Procedure 2001-28, the fair market value of the property at the end of the lease term must be estimated to be an amount equal to at least 20% of the original cost of the property. For this purpose, fair market value must be determined (i) without including in such value any increase or decrease for inflation or deflation during the lease term, and (ii) after subtracting from such value any cost to the lessor for removal and delivery of possession of the property to the lessor at the end of the lease term. In addition, under Revenue Procedure 2001-28, a reasonable estimate of the remaining useful life of the property at the end of the lease term must equal the longer of one year or 20% of the originally estimated useful life of the property.¹⁰² The Parent Trust and the Manager have represented that each Property is expected to have a value at the end of the applicable Lease term or the anticipated time of sale that is at least 20% of the original cost of such Property and that the financial projections of the value of each Property at the end of the applicable Lease term or the anticipated time of sale are not based on increases or decreases in inflation or deflation during the lease term and reflect the anticipated costs of sale. In addition, the Parent Trust and the Manager have represented that a reasonable estimate of the remaining useful life of each Property at the end of its initial lease term should equal the longer of one year or 20% of the originally estimated useful life of such Property.

D. Lease Term and Renewal Options.

For purposes of determining whether the various requirements imposed by Revenue Procedure 2001-28 are satisfied, the lease term must include all renewal or extension periods except renewals or extensions at the option of the lessee at fair rental value at the time of such renewal or extension.¹⁰³ We have considered the full term of the Master Lease in reaching our conclusions herein concerning the application of Revenue Procedure 2001-

¹⁰¹ *Id.* at § 4.01(2).

¹⁰² *Id.* at § 4.01(3).

¹⁰³ *Id.* at § 4.02.

28. There are no renewal options or extension periods as such terms are used in Revenue Procedure 2001-28.

E. Purchase and Sale Rights.

Under Revenue Procedure 2001-28, no member of the Lessee Group may have a contractual right to purchase the property from the lessor at a price less than its fair market value at the time the right is exercised.¹⁰⁴ When the property is first placed in service or use by the lessee, the lessor may not have a contractual right to cause any party to purchase the property.¹⁰⁵ The lessor must also not have any present intention to acquire such a contractual right. A provision that permits the lessor to abandon the property to any party will be treated as a contractual right of the lessor to cause such party to purchase the property.¹⁰⁶ Despite this prohibition, both the IRS and the courts have recognized leases utilizing fixed-price purchase options as leases for federal income tax purposes. A number of courts have concluded that a true lease existed even when the lessee had the right to purchase the leased property at a fixed price so long as the purchase price represented an estimate of the fair market value of the leased property as of the option date, or was not nominal in relation to such value.¹⁰⁷ The Master Lease and other Transaction Documents do not provide the Parent Trust or the Operating Trusts with a put option or the right to abandon the Properties to any party.

In the present case, the FMV Option provided to the Operating Partnership under the Trust Agreements is only exercisable for a purchase price equal to the then fair market value of a Beneficial Owner's Interest at such time in exchange for OP Units (or cash, as the case may be). Although not free from doubt, in light of the case law and rulings discussed above, the FMV Option provided under the Trust Agreements should not cause the Master Lease to fail to be a true lease for federal income tax purposes, as the FMV Option represents an estimate of the fair market value as of the option date (adjusted for applicable liabilities, certain adjustments, and customary prorations) and is not nominal in relation to such value.¹⁰⁸

F. Investment by Lessees.

No part of the cost of the property or the cost of improvements, modifications, or additions to the property ("**Improvements**"), may be furnished by any member of the Lessee Group. If the lease requires the lessee to maintain and keep the property in good repair during the

¹⁰⁴ *Id.* at § 4.03.

¹⁰⁵ *Id.* at § 4.03.

¹⁰⁶ *Id.* at § 4.03.

¹⁰⁷ See *L. W. Hardy Co. Inc. v. Comm'r*, T.C. Memo 1987-63; *Transamerica Corp. v. United States*, 15 Cl. Ct. 420 (1988), *aff'd* 902 F.2d 1540 (Fed. Cir. 1990); *Cooper v. Comm'r*, 88 T.C. 84 (1987); *Belz Inv. Co. v. Comm'r*, 72 T.C. 1209 (1979), *aff'd* 661 F.2d 76 (6th Cir. 1981), *acq.* 1980-2 C.B. 1; *Northwest Acceptance Corp. v. Comm'r*, 58 T.C. 836 (1972), *aff'd* 500 F.2d 1222 (9th Cir. 1974); *Lockhart Leasing Co. v. Comm'r*, 54 T.C. 301 (1970), *aff'd* 446 F.2d 269 (10th Cir. 1971); see also Staff of the Joint Committee on Taxation, General Explanation of the Tax Reform Act of 1984 (1984) ("Where [a] purchase option was more than nominal but relatively small in comparison with fair market value, the lessor was viewed as having transferred full ownership because of the likelihood that the lessee would exercise the option.").

¹⁰⁸ See Trust Agreements at §§ 10.1 & 10.4.

term of the lease, ordinary maintenance and repairs performed by a member of the Lessee Group will not constitute an Improvement.¹⁰⁹ While the Master Tenant may incur some obligations to construct improvements under one or more subleases, this should not affect the characterization of the Master Lease for U.S. federal income tax purposes. Under the Master Lease, the Master Tenant may be required to pay for certain tenant improvements associated with the Properties. For example, the Master Tenant must (i) make all necessary repairs and replacements, whether ordinary or extraordinary, foreseen or unforeseen, structural or non-structural, during the term of the Master Lease, (ii) keep the Properties in substantially the same condition and repair as when received and (iii) at the expiration or sooner termination of the Master Lease, return the Properties to the Trust in substantially the same condition and repair as when received (ordinary wear and tear and casualty and condemnation losses excepted).¹¹⁰ We believe that any such improvements required to be constructed by the Master Tenant under the Master Lease are in the nature of maintenance and repairs consistent with ordinary commercial practice and, therefore, should not prevent the Master Lease from qualifying as a true lease for federal income tax purposes.¹¹¹

G. No Lessee Loans or Guarantees.

No member of the Lessee Group may lend to the lessor any of the funds necessary to acquire the property, or guarantee any indebtedness created in connection with the acquisition of the property by the lessor.¹¹² A guarantee by any member of the Lessee Group of the lessee's obligation to pay rent, properly maintain the property, or pay insurance premiums or other similar conventional obligations of a net lease does not constitute a guarantee of the indebtedness of the lessor.¹¹³ There are no guarantees under the Master Lease or other Transaction Documents that violate this requirement.

H. Profit Requirement.

The lessor must expect to receive a profit from the transaction apart from the value of or benefits obtained from the tax deductions, allowances, credits, and other tax attributes arising from such transaction. Under the Revenue Procedure 2001-28 guidelines, this requirement is met if: (a) the aggregate amount required to be paid by the lessee to or for the lessor over the lease term plus the value of the residual investment exceed an amount equal to the sum of the aggregate disbursements required to be paid by or for the lessor in connection with the ownership of the property and the lessor's Equity Investment in the property, including any direct costs to finance the Equity Investment; and (b) the aggregate amount required to be paid to or for the lessor over the lease term exceeds by a reasonable amount the aggregate disbursements required to be paid by or for the lessor in connection

¹⁰⁹ Rev. Proc. 2001-28, 2001-1 C.B. 1156 at § 4.04.

¹¹⁰ See Master Lease at Par. 7.A.

¹¹¹ In addition, in its private ruling practice under Revenue Procedure 75-21 (the predecessor to Revenue Procedure 2001-28, which included a similar requirement), the IRS has generally concluded that the making of an improvement by a tenant not permitted under this guideline will not affect the true lease analysis. See I.R.S. Priv. Ltr. Rul. 8712025 (Dec. 18, 1986); see also I.R.S. Gen. Couns. Mem. 36,727 (May 13, 1976) ("We too have found no statutory or judicial law reclassifying a lease transaction as a purchase because of lessee improvements.").

¹¹² Rev. Proc. 2001-28, 2001-1 C.B. 1156 § 4.05.

¹¹³ *Id.* at § 4.05.

with the ownership of the property.¹¹⁴ Similarly, the return of a profit to the lessor is arguably indicative of a true upside, sufficient to satisfy the sham transaction and benefits and burdens framework established by the case law. The Parent Trust and the Manager have represented to us that the profit requirement is expected to be satisfied.

I. Conclusion.

In light of the above factors, the Master Lease satisfies most of the pertinent material conditions set forth in Revenue Procedure 2001-28 that we believe are necessary for characterization as a true lease for federal income tax purposes. Likewise, under the framework established in the case law, the Master Lease bears the hallmarks of a bona fide lease. Accordingly, we believe that the Master Lease should be treated as a true lease rather than as a financing for federal income tax purposes.

VII. The Master Lease should be treated as a true lease and not as a deemed partnership for federal income tax purposes.

It also is necessary to consider whether the Master Lease could be re-characterized as a partnership for federal income tax purposes because if the Parent Trust, the Operating Trusts, or the Beneficial Owners are treated as partners with the Master Tenant with respect to the ownership of the Properties, the Beneficial Owners would not be treated as directly holding interests in the Properties for income tax purposes.¹¹⁵ Case law provides that certain factors are indicative that a purported lease may in fact be a partnership for federal income tax purposes.¹¹⁶

¹¹⁴ Rev. Proc. 2001-28, 2001-1 C.B. 1156 at § 4.06.

¹¹⁵ Because the Property Manager will not be in privity of contract with the Trusts, there should be little doubt that there are no partnerships between the Property Manager and the Trusts.

¹¹⁶ See *Haley v. Comm'r*, 203 F.2d 815, 818 (5th Cir. 1953), *rev'g and rem'g* 16 T.C. 1509 (1951) (citing *Culbertson* and stating that a transaction will be treated as a partnership rather than a lease “if the agreements and the conduct of the parties . . . plainly show the existence of such [a partnership] relationship, and the intent to enter into it”); *Luna v. Comm'r*, 42 T.C. 1067, 1077-78 (1964) (outlining factors that will aid in the determination of whether a partnership exists for federal income tax purposes: “The following factors, none of which are conclusive, bear on this issue: . . . The agreement of the parties and their conduct in executing its terms; the contributions, if any, which each party has made to the venture; the parties’ control over income and capital and the right of each to make withdrawals; whether each party was a principal and coproprietor, sharing a mutual proprietary interest in the net profits and having an obligation to share losses, or whether one party was the agent or employee of the other, receiving for his services contingent compensation in the form of a percentage of income; whether business was conducted in the joint names of the parties; whether the parties filed Federal partnership returns or otherwise represented to . . . persons with whom they dealt that they were joint venturers; whether separate books of account were maintained for the venture; and whether the parties exercised mutual control over and assumed mutual responsibilities for the enterprise.”); *Bussing v. Comm'r*, 88 T.C. 449, 460 (1987) (“A partnership for Federal income tax purposes is formed when the parties to a venture join together capital or services with the intent of conducting a business or enterprise and of sharing the profits and/or losses of the venture”); *Deitch v. Comm'r*, T.C. Memo 2022-86 (a partnership “for tax purposes is generally a more inclusive term than ‘partnership’ at common law, and for tax purposes it may include entities not traditionally considered partnerships . . . To decide whether a partnership exists, a court must also analyze the relevant facts under the *Luna* factors.”). In *Bussing*, the parties entered into a multiparty sale lease-back transaction intending to qualify under *Frank Lyon*. In a sale lease-back transaction, rent payments generally offset amounts due under the debt incurred to

A. Applicable Standards.

The courts have focused on the following factors when analyzing this issue:

1. Intent.

The test set forth in *Culbertson* is applicable in determining whether an agreement is treated as a partnership or as a lease.¹¹⁷ The Master Lease specifically states that the parties do not intend to form a financing arrangement, joint venture, management agreement, or any arrangement other than a true lease.¹¹⁸ Likewise, the Master Lease provides that it is intended to be characterized as a true lease and that the parties shall reflect the Master Lease as such in all applicable books, records, and reports, including income tax filings.¹¹⁹

2. Joint Contribution of Capital or Services.

Where persons combine their capital and services together in an enterprise such that they are required to deal with each other to realize the economic benefits from the property, the arrangement generally will be characterized as a partnership.¹²⁰ The Operating Trusts and the Master Tenant do not intend to pool either their capital or services. The Operating Trusts will make the Properties available to the Master Tenant and will not participate in, or provide services to, the Master Tenant's business (except to the extent necessary to protect its investment in the applicable Property). Similarly, the Master Tenant will not provide capital to enable the Operating Trusts to acquire or improve the Properties and will not provide services to the Operating Trusts (except to the extent necessary to comply with its obligations under the applicable Lease).

3. Joint Capital and Ownership of Capital and Earnings.

Another factor is whether the participants will have joint control over the capital and earnings of the venture.¹²¹ The Master Tenant will have control over cash from the

purchase the asset, giving the purchaser-lessor an interest in the rent. Because of a remarketing agreement that enabled the seller-lessee to share along with the purchaser-lessor in the net residual value of the leased property, and that the purchaser-lessor took the property subject to already existing debt and therefore bore a risk of loss if the debt was not repaid, the court determined this evidenced a partnership. In *Deitch*, a lender and creditor entered into a financing arrangement whereby certain loan documents exhibited terms that weighed against the finding of a debtor-creditor relationship and, thus, weighed in favor of finding a partnership for tax purposes (e.g., lender entitled to a portion of net cash flow of the underlying property and a portion of the gross sale proceeds that attempted to capture appreciation of the property's value). However, the Tax Court affirmed the principle espoused in *Luna* that no single factor is conclusive, and accordingly held that the transaction, when viewed as a whole, did not establish a partnership for tax purposes despite certain partnership-like characteristics.

¹¹⁷ *Comm'r v. Culbertson*, 337 U.S. 733 (1949).

¹¹⁸ See Master Lease at Par. 2.D.

¹¹⁹ *Id.*

¹²⁰ *Bussing*, 88 T.C. at 460; *Alhouse v. Comm'r*, T.C. Memo 1991-652.

¹²¹ *Luna v. Comm'r*, 42 T.C. at 1077-78. Courts have found that control over capital and earnings of the venture may exist where one party can exercise *de facto* control over the purported venture's assets by, for example, refusing to act when the results of such refusal could forcibly effect disposition of the venture's assets. See *Deitch v. Comm'r*, T.C. Memo 2022-86 (lender could have refused loan terms extensions that would have caused loan principal to fall due, and because the property encumbered by

Properties. However, the Master Tenant should not be deemed to have an ownership interest in the funds to which the Operating Trusts are entitled, and the Master Tenant does not have the power to spend such funds except pursuant to the specific terms provided under the Master Lease. The Operating Trusts and the Master Tenant will each earn a separate and distinct profit stream. The Master Tenant will recognize income or loss based on the difference between the rent it receives on the subleases and the expenses of leasing and operating the Properties. The Operating Trusts will receive rent from the Master Tenant, including a fixed base rent payment payable on a quarterly basis, and additional rent and other sums under the terms of the Master Lease.¹²² The Master Lease does not provide for any rental payments based on net operating income or net cash flow from the operation of the Properties. Thus, none of these parties will jointly share in profits or losses; rather, each will bear its own separate and unique risk that a profit will be realized.

4. Sharing of Profits as Co-proprietors.

Partners generally share profits as co-proprietors. A sharing of profits, however, is not alone sufficient to make partners or joint venturers out of participants in a business enterprise if the requisite element of co-ownership is not established.¹²³ A profit share in a lease can be received by a lessor as rent without the lessor becoming a partner in the enterprise. A share of net receipts, as opposed to gross receipts, is stronger evidence that a partnership relationship exists, but without more, should not cause a lease to be recharacterized as a partnership. Under the Master Lease, the Master Tenant receives rent

the loan was the purported venturer's only asset, the venture would have been forced to sell the property to satisfy loan obligations).

¹²² See Master Lease at Par. 2.

¹²³ See Treas. Reg. § 301.7701-1(a)(2) (if an individual owner of farm property leases it to a farmer for a cash rental or a share of the crops, they do not necessarily create a separate entity for federal income tax purposes); *Grandview Mines v. Comm'r*, 282 F.2d 700 (9th Cir. 1960), *aff'g* 32 T.C. 759 (1959) (46.5% of lessee's net profits from leased property; not recharacterized as partnership); *Freesen v. Comm'r*, 84 T.C. 920 (1985) ('The fact that the consideration paid for the use of property is a function of net profits, does not require a finding that a joint venture exists'); see also *U.S. v. Myra Foundation*, 382 F.2d 107 (8th Cir. 1967) (sharecropping arrangement not partnership even though landowner furnished seed, paid half of certain expenses, and participated in farming operations through a farm manager); *White's Iowa Manual Labor Inst. v. Comm'r*, T.C. Memo 1993-364 (same result); *Harlan E. Moore Charitable Trust v. United States*, 9 F.3d 623 (7th Cir. 1993) (same result); *Oblinger Trust v. Comm'r*, 100 T.C. 114 (1993); *cf. Bank of El Paso v. United States*, 509 F.2d 832 (5th Cir. 1975) (holding characterization as lease or partnership was a question for the jury and distinguishing *Myra Foundation*); Rev. Rul. 57-7, 1957-1 C.B. 435 (arrangements in which coin-operated entertainments were placed on premises and under which the owner of the premises received a percentage of the gross receipts were leases); *Manchester Music Co., Inc. v. United States*, 733 F. Supp. 473 (D.N.H. 1990) (reaching opposite conclusion from Rev. Rul. 57-7); *In re Acme Music Co., Inc.*, 196 B.R. 925 (W.D. Pa. 1996) (no partnership between owner of premises of operator of coin-operated entertainments where owner and operator shared only gross profits, not net profits); Rev. Rul. 92-49, 1992 -1 C.B. 433 (allowing taxpayers to elect how to report arrangements described in Rev. Rul. 57-7); see also *Duley v. Comm'r*, T.C. Memo 1981-246 (no partnership even though profit sharing because no intent to form partnership, no sharing of losses and no material interest in capital); *Koss v. Comm'r*, T.C. Memo 1989-330 (no partnership when joint sharing of profits because no obligation to contribute capital or share losses and no proprietary interest in profits); *Deitch*, T.C. Memo 2022-86 (50% of debtor's net cash flow from encumbered property nominally classified as interest; venture not recharacterized as a partnership); I.R.S. Priv. Ltr. Rul. 8003027 (Oct. 23, 1979); I.R.S. Gen. Couns. Mem. 36,113 (Dec. 19, 1974); Rev. Rul. 75-43, 1975-1 C.B. 383.

from the sublease of the Properties whereas the Operating Trusts receive rent from the Master Tenant. Under the Treasury Regulations, the sharing of gross rents, without more, is very unlikely to create a partnership arrangement.¹²⁴ As noted above, the Master Lease does not provide for any rental payments based on net operating income or net cash flow from the operation of the Properties or any other similar sharing relationships or arrangements beyond the sharing of gross rents from the Properties.

5. Sharing of Losses.

Although the sharing of losses is not required to obtain partner status, this has often been a significant factor in cases distinguishing leases from partnerships. A mere profit-sharing agreement would not be taxed as a partnership absent an intent to form a partnership, especially when there was no agreement to share losses.¹²⁵ In this case, the Master Tenant will not share in losses generated from an ownership interest in the Properties. Further, in the case of the Master Lease, the Operating Trusts will lease the Properties to the Master Tenant, and will not share in losses, if any, sustained by the Master Tenant with respect to operating and subletting of the Properties.

6. Control Over the Business.

An arrangement whereby two or more persons share the profits of a common undertaking does not constitute a joint venture in the absence of the power to control.¹²⁶ Typically, a lessor does not jointly manage the leased property with the lessee. The right of a lessor to participate in the management of the property, therefore, is an important factor distinguishing leases from partnerships.¹²⁷ Under the terms of the Master Lease, the Operating Trusts will have limited rights to participate in the management of the Properties. The Master Tenant will have the right to manage the day-to-day operation of the Properties. While any decision to sell or refinance the Properties will be made by the Manager on behalf of the Operating Trusts, this right is typical for a lessor to possess as the owner of a property and, therefore, does not support partnership characterization.

7. Parties' Agreement and Conduct in Executing its Terms.

As stated above, the Master Lease specifically states that the parties do not intend to form a financing arrangement, joint venture, management agreement, or any arrangement other than a true lease.¹²⁸ Additionally, we believe the terms of the Master Lease are not

¹²⁴ Treas. Reg. § 1.761-1(a); Treas. Reg. § 301.7701-1(a)(2) (when an owner of farm land leases property to a farmer for a cash rental or a share of the crops, the lease does not necessarily result in a separate entity for federal income tax purposes).

¹²⁵ See *Deitch*, T.C. Memo 2022-86 (the lender's entitlement to 50% of net cash flow meant that the parties "did not have equivalent interests in the [property's] income stream" and that the lender "was always guaranteed to receive what amounted to more than half of the income from the property, provided that the property was profitable"; although the court ultimately found that the arrangement gave parties control over the income and capital of the purported venture, the court's language implies that the mere sharing of profit, but not loss, was not the critical factor in such determination).

¹²⁶ *Joe Balestrieri and Co. v. Comm'r*, 177 F.2d 867 (9th Cir. 1949); *O'Connor v. Comm'r*, T.C. Memo 1960-70 (broker split profits but compensated for losses).

¹²⁷ See, e.g., *Grandview Mines*, 282 F.2d 700; *Haley*, 203 F.2d 815.

¹²⁸ See Master Lease at Par. 2.D.

indicative of financing arrangements, joint venture, or management arrangements. Accordingly, the parties' agreement and, to our knowledge, their conduct in executing its terms should not be indicative of a partnership for federal income tax purposes.¹²⁹

8. Maintenance of Separate Books.

The Master Tenant will not keep books or records on behalf of the Operating Trusts; such tasks will be performed by the Manager on behalf of the Operating Trusts. Under the Master Lease, the Master Tenant will keep records as required to report and pay rental payments to the Operating Trusts so that each of the Operating Trusts will separately report its separate rental income.¹³⁰

9. Filing of Tax Returns or Other Partnership Action.

Pursuant to the Master Lease, no partnership returns will be filed and the parties are prohibited from otherwise acting or holding themselves out as partners in a partnership.¹³¹ Each party is specifically required to reflect the transactions represented by the Master Lease in all applicable books, records, and reports (including, without limitation, income tax filings) in a manner consistent with true lease treatment (i.e., in a manner reflecting a relationship between a landlord and tenant).¹³²

10. Lessee Shares in Residual Proceeds.

Although a number of cases have upheld transactions as leases even though the lessee was engaged to provide the lessor with remarketing services in exchange for a share of the sales proceeds,¹³³ this factor is not present here. In addition, any compensation of the Manager, if any, upon a sale of the Properties is a matter of contract between the Operating Trusts and the Manager and should not give rise to a partnership between the Master Tenant and the Operating Trusts for federal income tax purposes.

B. Conclusion.

Based on these factors, the arrangement between and among the Operating Trusts and the

¹²⁹ See *Sun Capital Partners III, LP v. New England Teamsters & Trucking Industry Pension Fund*, 943 F.3d 49 (1st Cir. 2019) (in deciding whether two private equity funds (the "Funds") had created a deemed partnership: "The fact that the Funds expressly disclaimed any sort of partnership between the Funds counts against a partnership finding as to several of the *Luna* factors."); *Deitch*, T.C. Memo 2022-86 ("[L]oan documents executed by [the parties] could hardly have been more explicit in naming their relationship. Affirmatively, the documents stated that [the parties] did not form a joint venture [and the parties] conducted themselves in accordance with the terms of the loan documents.").

¹³⁰ See Master Lease at Par. 2.F; *Sun Capital*, 943 F.3d 49 (1st Cir. 2019) (applying the *Luna* factors, the "Funds . . . kept separate books . . . a fact which tends to rebut partnership formation"); *Deitch*, T.C. Memo 2022-86 (agreeing to the manner in which interest payments are calculated and reported is alone not enough to impute maintenance of joint books and records).

¹³¹ See Master Lease at Par. 2.D.; *Sun Capital*, 943 F.3d 49 (1st Cir. 2019) (applying the *Luna* factors "The Funds also filed separate tax returns . . . a fact which tends to rebut partnership formation."); *Deitch*, T.C. Memo 2022-86.

¹³² See Master Lease at Par. 2.D.

¹³³ See, e.g., *Levy*, 91 T.C. 838; *Casebeer*, 909 F.2d 1360.

Master Tenant should not give rise to a deemed partnership for federal income tax purposes.

VIII. The Elizabeth on Seventh Property should not be subject to the limitations of Section 470 because less than 35% of the Elizabeth on Seventh Property is leased to tax-exempt entities in disqualified leases.

Because the Novant Tenant is a tax-exempt entity occupying space at the Elizabeth on Seventh Property, it is further necessary to consider whether the Elizabeth on Seventh Property could be characterized as “tax-exempt use property” and thus fall under Section 470. Congress enacted Section 470 to address certain sale-in, lease-out transactions that were used to shift tax benefits between taxable and tax-exempt entities with respect to depreciable property. If the limitations of Section 470 were to apply, any “tax-exempt use loss” for a taxable year would be disallowed.¹³⁴ For this purpose, “tax-exempt use loss” generally includes any deductions (such as depreciation and interest) related to the tax-exempt use property.¹³⁵ Further, if the limitations of Section 470 were to apply, the tax-exempt use property generally may not be used in a Section 1031 Exchange or an involuntary exchange under Section 1033.¹³⁶

Congress also recognized that certain transactions involving tax-exempt use property may in fact be “legitimate commercial leasing transactions.”¹³⁷ Thus, Congress imposed tax-exempt use property status on certain real property only in instances where more than 35% of the net rentable floor space of such property is leased to tax-exempt tenants in “disqualified leases.” Based on the analysis below, we believe that the Elizabeth on Seventh Property should not be subject to the limitations of Section 470 because less than 35% of the net rentable floor space of the Elizabeth on Seventh Property is leased to tax-exempt entities in disqualified leases.

A. Applicable Standards for Tax-Exempt Use Property

The term “tax-exempt use property” is defined by cross-reference to Section 168(h), subject to certain exceptions.¹³⁸ Generally speaking, tax-exempt use property is defined as any tangible property (other than nonresidential real property) leased to a tax-exempt entity.¹³⁹ For this purpose, a “tax-exempt entity” includes the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing.¹⁴⁰ If a property is nonresidential real property, tax-exempt use property is defined as portion of the property leased to a tax-exempt entity pursuant to a “disqualified lease.”¹⁴¹ The term “nonresidential real property” in this context

¹³⁴ See Code § 470(a).

¹³⁵ See Code § 470(c)(1).

¹³⁶ Code § 470(e)(4)(A).

¹³⁷ H.R. Rep. No. 548, 108th Cong., 2d. Sess. 314 (2004).

¹³⁸ Code § 470(c)(2). The exceptions noted should not be applicable here, which provide for a carveout with respect to certain short-term leases and certain qualified technological equipment.

¹³⁹ Code § 168(h)(1).

¹⁴⁰ Code § 168(h)(2)(A)(i).

¹⁴¹ Code § 168(h)(1)(B)(i).

includes “residential rental property,”¹⁴² which in turn means any building or structure if 80% or more of the gross rental income from the building for the taxable year is rental income from dwelling units.¹⁴³ In contrast, “nonresidential real property” means any Section 1250 property which is not residential rental property, or is property with a class life of less than 27.5 years.¹⁴⁴ In the context of nonresidential real property, “disqualified lease” is defined as any lease of property to a tax-exempt entity that satisfies at least one of four conditions, which generally relate to financing terms, availability of a purchase option, length of a lease term, and previous use of the property by a party related to the tax-exempt entity.¹⁴⁵

However, in the case of nonresidential real property, a lease that may otherwise be a disqualified lease will not be treated as such if the portion of the property leased to tax-exempt entities in what would otherwise be disqualified leases is 35% or less of such property,¹⁴⁶ measured by net rentable floor space of the property.¹⁴⁷ For this purpose, the term “net rentable floor space” does not include common areas of a building, regardless of the terms of the lease.¹⁴⁸ If a property is comprised of two or more buildings, such disparate buildings may be aggregated together and treated as one “property” for purposes of this analysis if such buildings were constructed under a common plan within a reasonable time of each other on the same site and will be used in an integrated manner.¹⁴⁹ For purposes of the 35% threshold calculation, leases to different tax-exempt entities (regardless of whether they are related) are aggregated in determining whether property is tax-exempt use property.¹⁵⁰

B. The Novant Lease

The Novant Tenant is a Section 501(c)(3) organization, and thus should be exempt from taxation under Section 168(h)(2)(A)(ii) and considered a “tax-exempt entity” for purposes of Sections 470 and 168(h). It has been represented to us that to the knowledge of the Sponsor, the Depositor, the Parent Trust, and the Manager, the Novant Tenant is the only tax-exempt entity leasing space at the Properties, and that the Master Tenant will not permit any additional tax-exempt entities to lease or occupy space at the Properties, and shall not approve and consent to the transfer, assignment, or sublease of any Property-level lease to a tax-exempt entity, which in each event, would cause more than 25% of the net rentable floor space of each Property to be leased to tax-exempt entities in disqualified leases.

¹⁴² Code § 168(h)(1)(E) (“For purposes of [Code Section 168(h)(1)], the term ‘nonresidential real property’ includes residential rental property.”)

¹⁴³ Code § 168(e)(2)(A).

¹⁴⁴ Code § 168(e)(2)(B).

¹⁴⁵ Code § 168(h)(1)(B)(ii).

¹⁴⁶ Code § 168(h)(1)(B)(iii).

¹⁴⁷ Treas. Reg. § 1.168(j)-1T at A-6 (“The phrase “more than 35 percent of the property” means more than 35 percent of the net rentable floor space of the property. The net rentable floor space in a building does not include the common areas of the building, regardless of the terms of the lease.”).

¹⁴⁸ Treas. Reg. § 1.168(j)-1T at A-6.

¹⁴⁹ Treas. Reg. § 1.168(j)-1T at A-6.

¹⁵⁰ *Id.* at A-7.

The Elizabeth on Seventh Property is a mixed-use office and retail building and should thus be considered “nonresidential real property” for purposes of Sections 470 and 168(h).

We have independently reviewed the Novant Lease and the First Amendment to the Novant Lease and verified that the Novant Tenant occupies only 11,776 square feet of rentable space at the Elizabeth on Seventh Property. That is, the Novant Tenant occupies less than approximately 12% of the net rentable floor space.

Because less than 35% of the net rentable floor space of the Elizabeth on Seventh Property is leased to tax-exempt entities pursuant to disqualified leases, the Elizabeth on Seventh Property should not be subject to the limitations of Section 470.

IX. The discussion of the federal income tax consequences contained in the Memorandum are correct in all material respects.

We have reviewed the discussion of federal income tax consequences contained in the Memorandum, and we believe that it is correct in all material respects. Our opinion, however, does not address whether the exchange entered into by a Purchaser satisfies all of the requirements of Section 1031.

X. Certain judicially created doctrines should not apply to change the foregoing conclusions.

There are a number of judicially created doctrines that may conceivably apply to the Parent Trust’s and the Operating Trusts’ contractual arrangements, including the economic substance, sham transaction, substance over form, and step transaction doctrines. For reasons discussed more fully below, none of the foregoing doctrines should apply to recharacterize the contractual arrangements or transactions in the instant case.

A. Economic Substance and Business Purpose.

1. Applicable Rules.

Taxpayers generally are free to structure their business transactions as they please, even if motivated by tax avoidance considerations.¹⁵¹ While a transaction with no purpose other than to reduce taxes will not be recognized for federal income tax purposes, a transaction that has a meaningful business purpose and economic substance should be respected, regardless of whether the taxpayer also intended to reduce taxes.¹⁵² In *Frank Lyon Co. v.*

¹⁵¹ See *Gregory*, 293 U.S. 465; *Rice’s Toyota World v. Comm’r*, 81 T.C. 184, 196 (1983), *aff’d in part, rev’d in part and rem’d*, 752 F.2d 89 (4th Cir. 1985).

¹⁵² *Gregory*, 293 U.S. at 469; see also *Superior Oil Co. v. Mississippi*, 280 U.S. 390, 395-96 (1930) (“The only purpose of the [taxpayer] was to escape taxation. . . The fact that it desired to evade the law, as it is called, is immaterial, because the very meaning of a line in the law is that you intentionally may go as close to it as you can if you do not pass it.”); *Knetsch v. United States*, 364 U.S. 361, 365 (1960) (citing *Gregory* regarding the legal right of a taxpayer to decrease or altogether avoid taxes); *ACM Partnership v. Comm’r*, 157 F.3d 231, 248 n.31 (3d Cir. 1998) (“[I]t is also well established that where a transaction objectively affects the taxpayer’s net economic position, legal relations, or non-tax business interests, it will not be disregarded merely because it was motivated by tax considerations. In analyzing both the objective and subjective aspects of [the] transaction in this case where the objective attributes of an economically substantive transaction were lacking, we do not intend to suggest that a transaction which

United States,¹⁵³ the Supreme Court stated:

Where . . . there is a genuine multiple-party transaction with economic substance which is compelled or encouraged by business or regulatory realities, is imbued with tax independent considerations, and is not shaped solely by tax-avoidance features that have meaningless labels attached, the Government should honor the allocation of rights and duties effectuated by the parties.¹⁵⁴

As a result of *Frank Lyon*, a two-pronged test was developed to determine whether the form of a transaction should be respected or disregarded as a sham. In *Rice's Toyota World, Inc.*,¹⁵⁵ the Fourth Circuit articulated this test by stating that “[t]o treat a transaction as a sham, the court must find that the taxpayer was motivated by no business purposes other than obtaining tax benefits in entering the transaction, and that the transaction has no economic substance because no reasonable possibility of a profit exists.”¹⁵⁶ This test therefore analyzes both the objective and subjective aspects of a transaction, i.e., the economic substance and the subjective business motivation behind the transaction, respectively.¹⁵⁷ These objective and subjective aspects are not “discrete prongs of a ‘rigid two-step analysis,’” but rather are related factors in the analysis of whether a transaction has sufficient substance, apart from its tax consequences, to be respected.¹⁵⁸

has actual, objective effects on a taxpayer’s non-tax affairs must be disregarded merely because it was motivated by tax considerations.”)(internal citation omitted); *Yosha v. Comm’r*, 861 F.2d 494, 499 (7th Cir. 1988) (a transaction has economic substance when “. . . it is the kind of transaction that some people enter into without a tax motive, even though the people fighting to defend the tax advantages of the transaction might not or would not have undertaken it but for the prospect of such advantages — may indeed have had no other interest in the transaction.”).

¹⁵³ 435 U.S. 561 (1978).

¹⁵⁴ *Id.* at 583-84; see also *Cottage Savings Ass’n v. Comm’r*, 499 U.S. 554 (1991) (a savings and loan association that swapped mortgage portfolios in order to recognize a tax loss was allowed such loss; the Supreme Court focused not on the tax-motivated purpose, but on whether the portfolios were materially different by tax as opposed to economic standards).

¹⁵⁵ 81 T.C. 184 (1983), *aff’d in part, rev’d in part and rem’d*, 752 F.2d 89 (4th Cir. 1985).

¹⁵⁶ *Rice’s Toyota World*, 752 F.2d at 91; see also *Horn v. Comm’r*, 968 F.2d 1229, 1237 (D.C. Cir. 1992) (before declaring a transaction an economic sham, the court should consider whether the transaction presented a reasonable prospect for economic gain).

¹⁵⁷ *Casebeer*, 909 F.2d at 1363; accord *Lerman v. Comm’r*, 939 F.2d 44, 53-54 (3d Cir. 1991) (noting that a sham transaction is defined as a transaction that “has no business purpose or economic effect other than the creation of tax deductions” and holding that the taxpayer was not entitled “to claim ‘losses’ when none in fact were sustained”).

¹⁵⁸ *Casebeer*, 909 F.2d at 1363; see also *Jacobson v. Comm’r*, 915 F.2d 832, 837 (2d Cir. 1990) (the determination of economic substance looks to whether the transaction has any “practicable economic effects other than the creation of income tax losses”); *Weller v. Comm’r*, 270 F.2d 294, 297 (3d Cir. 1959) (transactions that do not change the flow of economic benefits are disregarded if they do not change the taxpayer’s financial position); *Northern Ind. Pub. Serv. Co. v. Comm’r*, 115 F.3d 506 (7th Cir. 1997), *aff’g*, 105 T.C. 341 (1995) (the IRS could not set aside transactions which resulted “in actual, non-tax related changes in economic position.”); *Larsen*, 89 T.C. 1229; *cf. Kirchman v. Comm’r*, 862 F.2d 1486 (11th Cir. 1989) (existence of a nontax business purpose does not mandate the recognition of a transaction that otherwise lacks economic substance); *Goldstein v. Comm’r*, 364 F.2d 734 (2d Cir. 1966) (the court

With respect to determining profit potential, the courts have not traditionally established a threshold amount of profit to determine whether a transaction should be respected for federal income tax purposes. The Tax Court has in some cases required more than a *de minimis* amount of profit, especially where transactions involving financial instruments are concerned.¹⁵⁹ Other courts, however, have been reluctant to propose a threshold amount.¹⁶⁰

In *United Parcel Service of America, Inc. v. Commissioner*,¹⁶¹ the Eleventh Circuit reversed the Tax Court¹⁶² on the issue of economic substance in finding that the restructuring by United Parcel Service (“UPS”) of its excess-value business had both real economic effects and a business purpose. The Court reasoned that setting up a transaction (that otherwise has economic substance) with tax planning in mind is permissible as long as it figures in a bona fide, profit-seeking business purpose. In its finding that UPS’ transaction had a valid business purpose, the Court noted that “a ‘business purpose’ does not mean a reason for a transaction that is free of tax considerations. Rather, a transaction has a ‘business purpose’ . . . as long as it figures in a bona fide, profit-seeking business.”¹⁶³

The economic substance doctrine was developed under an extensive body of case law prior to being codified as Section 7701(o) as part of the Reconciliation Act of 2010.¹⁶⁴ Before the economic substance doctrine under Section 7701(o) can be applied to a transaction, it is important to ask whether the economic substance doctrine is relevant to such transaction. Section 7701(o)(5)(C) provides that “[t]he determination of whether the economic substance doctrine is relevant to a transaction shall be made in the same manner as if this subsection has never been enacted.”¹⁶⁵ For example, the Joint Committee Report specifically provides that “[l]easing transactions, like all other types of transactions, will continue to be analyzed in light of all the facts and circumstances.”¹⁶⁶ This suggests that the economic substance doctrine as codified will be applied as it historically has been applied under the case law. However, taxpayers should anticipate that the courts and the IRS could apply the specific language of the statute.

The Joint Committee Report provides for two types of transactions that are not considered

denied the taxpayer a prepaid interest deduction on debt incurred by the taxpayer solely to generate a deduction because the taxpayer could not reasonably have had any purpose in entering the transactions other than to reduce taxes).

¹⁵⁹ See *Hilton v. Comm’r*, 74 T.C. 305, 353 (1980); *aff’d per curiam*, 671 F.2d 316 (9th Cir. 1982) (a 6% rate of return was required for purposes of the economic substance determination); *Krumhorn v. Comm’r*, 103 T.C. 29 (1994).

¹⁶⁰ See *Estate of Thomas v. Comm’r*, 84 T.C. 412, 440 n. 52 (1985) (the court abstained, absent legislative guidance, from proposing a particular return for purposes of the determination of profit potential). 254 F.3d 1014 (11th Cir. 2001), *rev’g*, T.C. Memo 1999-268.

¹⁶¹ T.C. Memo 1999-268.

¹⁶² *United Parcel Service of America, Inc.*, 254 F.3d at 1019.

¹⁶³ As codified, the economic substance doctrine is the “common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.” Code § 7701(o)(5)(A).

¹⁶⁴ See also Joint Committee on Taxation, Technical Explanation of the Revenue Provisions of the “Reconciliation Act of 2010,” as amended, in combination with the “Patient Protection and Affordable Care Act” (JCX-18-10) (Mar. 21, 2010) [hereinafter “**Joint Committee Report**”], at 152 (“[T]he provision does not change present law standards in determining when to utilize the economic substance analysis.”).

¹⁶⁵ *Id.*

relevant for purposes of the economic substance doctrine: (i) transactions giving rise to the realization of tax benefits consistent with the intent of Congress; and (ii) certain basic business transactions that are respected “under longstanding judicial and administrative practice.”¹⁶⁷ Regarding the first category of transactions to which the economic substance doctrine is not relevant, the Joint Committee Report states that “[if] the realization of the tax benefits of a transaction is consistent with the Congressional purpose or plan that the tax benefits were designed by Congress to effectuate, it is not intended that such tax benefits be disallowed.”¹⁶⁸ Regarding the second category of transactions to which the economic substance doctrine is not relevant, the Joint Committee Report states that Section 7701(o) “is not intended to alter the tax treatment of certain basic business transactions that, under longstanding judicial and administrative practice are respected, merely because the choice between meaningful economic alternatives is largely or entirely based on comparative tax advantages.”¹⁶⁹ The Joint Committee Report further provides that the economic substance doctrine does not apply to the following four basic business transactions: (i) the choice between capitalizing a business enterprise with debt or equity; (ii) a U.S. person’s choice between utilizing a foreign corporation or a domestic corporation to make a foreign investment; (iii) the choice to enter a transaction or series of transactions that constitute a corporate organization or reorganization under subchapter C of the Code; and (iv) the choice to use a related-party entity in a transaction, provided that the arm’s-length standard of Section 482 and other applicable concepts are satisfied.¹⁷⁰

The legislative history to Section 7701(o) provides limited guidance as to whether the economic substance doctrine applies in the first instance. Specifically, in House Report 111-443 (the “**House Report**”), the House Budget Committee explained that it does not intend for the provision to alter the tax treatment of “certain basic business transactions that, under longstanding judicial and administrative practice are respected, merely because the choice between meaningful economic alternatives is largely or entirely based on comparative tax advantages.”¹⁷¹ The House Report goes on to note that, “as under present law, whether a particular transaction meets the requirements for specific treatment under any of these provisions is a question of facts and circumstances.”¹⁷²

In addition, the Large Business and International Division of the IRS issued guidance to assist examiners and their managers with determining whether it is appropriate to raise the economic substance doctrine with respect to a transaction under review (the “**LB&I Directive**”).¹⁷³ The LB&I Directive lists factors tending to show that it likely would be inappropriate to apply the economic substance doctrine, such as if (i) the transaction was

¹⁶⁷ *Id.* at 152-153.

¹⁶⁸ *Id.* at 152 n. 344.

¹⁶⁹ *Id.* at 152.

¹⁷⁰ *Id.* at 152-153.

¹⁷¹ H.R. Rep. No. 111-443, at 296 (2010).

¹⁷² *Id.*

¹⁷³ LB&I Directive, Guidance for Examiners and Managers on the Codified Economic Substance Doctrine and Related Penalties, Control No: LB&I-4-0711-015 (July 15, 2011). Comments from members of the IRS suggest that the IRS does not consider the LB&I Directive to represent substantive guidance for taxpayers. See Lee A. Sheppard & Jeremiah Coder, *What Does the Economic Substance Directive Mean?*, 2011 TAX NOTES TODAY 205-5 (Oct. 24, 2011). Even so, the LB&I Directive provided insight into the IRS’s understanding of section 7701(o).

not highly structured, (ii) the transaction was based on arms' length terms negotiated by unrelated third parties, (iii) the transaction did not involve unnecessary steps, (iv) the transaction was not promoted by a tax department or outside counsel, or (v) the transaction generates targeted tax incentives that are, in form and substance, consistent with Congressional intent in providing the incentives.¹⁷⁴

If a transaction is relevant and thus subject to the economic substance doctrine, Section 7701(o) codifies the position, already taken by many courts, that the economic substance doctrine entails application of a "conjunctive test."¹⁷⁵ Specifically, Section 7701(o)(1) provides that a transaction (or series of transactions) to which the economic substance doctrine applies is treated as having economic substance only if: (1) it changes in a meaningful way (apart from any federal income tax effects) the taxpayer's economic position; and (2) the taxpayer has a substantial purpose (apart from federal income tax effects) for entering into such transaction. Before enacting Section 7701(o), some circuit courts of appeal would only require a change in economic circumstances or a business purpose. By enacting Section 7701(o), Congress eliminated any distinction between the different federal circuit courts of appeal as to whether the foregoing test should be applied conjunctively or disjunctively.

2. Analysis.

The Parent Trust's and the Operating Trusts' contractual arrangements should be recognized for federal income tax purposes according to their form. As discussed above, the economic substance doctrine does not apply to certain basic business transactions, including a U.S. person's choice between utilizing a foreign corporation or a domestic corporation to make a foreign investment. Although the use of Delaware statutory trusts to invest in real properties is not a transaction that is specifically included in the list of basic business transactions in the Joint Committee Report that are not subject to the economic substance doctrine, the transaction pertaining to "a U.S. person's choice between utilizing a foreign corporation or a domestic corporation to make a foreign investment" speaks to the general issue of how a taxpayer structures investments, such that the type of entity used by a taxpayer to structure an investment (i.e., corporation, partnership, trust) should arguably be considered a basic business transaction that is not relevant and to which the economic substance doctrine is not applicable. Accordingly, the holding by the Beneficial Owners of the Properties through the Parent Trust should be treated as a transaction that is not relevant for purposes of Section 7701(o), such that the economic substance doctrine should not apply.

Even if for the sake of argument, however, the holding by the Beneficial Owners of the Properties through the Parent Trust were treated as a transaction that is relevant for purposes of Section 7701(o), such transaction should be respected because (i) the Beneficial Owners' economic positions are meaningfully changed as a result of entering into the transactions herein; and (ii) there is a substantial purpose (apart from federal income tax effects) for the Beneficial Owners for entering into the transactions. Such

¹⁷⁴ LB&I Directive.

¹⁷⁵ See, e.g., *Klamath Strategic Investment Fund v. United States*, 568 F.3d 537, (5th Cir. 2009); *Coltec v. United States*, 454 F.3d 1340 (Fed. Cir. 2006); *United Parcel Service of America, Inc.*, 254 F.3d at 1014.

substantial purpose is to enable each Beneficial Owner to be treated as a direct owner of a portion of the Properties for federal income tax purposes. Furthermore, each Beneficial Owner's economic position changes in a meaningful way as it will be given an opportunity to own an interest in the Properties in a manner that it might not otherwise be able to do on its own accord due to its respective individual financial limitations. In addition, each Beneficial Owner will have a right to its pro rata share of all income and loss generated by the bona fide, profit-seeking business of operating the Properties, and the allocation of all economic benefits and burdens associated with the Properties will correspond to the respective Interest owned by each Beneficial Owner. For the foregoing reasons, the Parent Trust's and the Operating Trusts' transactions and contractual arrangements herein should be respected under the economic substance doctrine.

B. Sham Transaction Doctrine.

1. Applicable Rules.

Under the sham transaction doctrine, a transaction may be disregarded if it constitutes a factual sham or an economic sham. A factual sham is a purported transaction that is not executed as a factual matter.¹⁷⁶ In contrast, an economic sham is a transaction that has occurred, but is devoid of economic substance.¹⁷⁷ In general, the economic sham doctrine will not be applied if the taxpayer can prove that there is either a business purpose for, or economic substance to, the given transaction.¹⁷⁸

The application of the sham transaction doctrine is extremely fact specific, and has led courts to render somewhat inconsistent rulings in this area. For example, the Third Circuit in *ACM Partnership v. Commissioner* disregarded the capital loss that arose from a complex, multi-step partnership transaction.¹⁷⁹ The court ultimately concluded that the steps involved in the transaction lacked a non-tax economic effect and did not possess a significant non-tax business purpose.¹⁸⁰ The Third Circuit nevertheless recognized that "it is well established that where a transaction objectively affects the taxpayer's net economic position, legal relations, or non-tax business interests, [a transaction] would not be disregarded merely because it was motivated by tax considerations."¹⁸¹ The transaction at

¹⁷⁶ *Brown v. Comm'r*, 85 T.C. 968, 1000 (1985), *aff'd sub nom, Sochin v. Comm'r*, 843 F.2d 351 (9th Cir. 1988); Brion D. Graber, Can the Battle be Won? Compaq, the Sham Transaction Doctrine, and a Critique of Proposals to Combat the Corporate Tax Shelter Dragon, 149 U. Pa. L. Rev. 355, 362-63 (Nov. 2000).

¹⁷⁷ *Gregory*, 293 U.S. 465; *Knetsch*, 364 U.S. at 366 ("There may well be single-premium annuity arrangements with nontax substance which create an 'indebtedness' for the purposes of Section 23(b) of the 1939 Code and Section 163(a) of the 1954 Code. But this one is a sham."); *Goldstein*, 364 F.2d at 742 ("[T]ransactions that lack all substance, utility, and purpose, and which can only be explained on the ground the taxpayer sought an interest deduction in order to reduce his taxes, will also be so transparently arranged that they can candidly be labeled 'shams.'"), *cert. denied*, 385 U.S. 1005 (1967); *Alessandra v. Comm'r*, T.C. Memo 1995-238.

¹⁷⁸ *Rice's Toyota World*, 81 T.C. at 203 ("Our analysis does not end here. Mr. Rice's failure to focus on the business or non-tax aspects of the transaction is not necessarily fatal to petitioner's claim. If an objective analysis of the investment indicates a realistic opportunity for economic profit which would justify the form of the transaction, it will not be classified as a sham."); *see also Frank Lyon Co.*, 435 U.S. 561.

¹⁷⁹ 157 F.3d at 263.

¹⁸⁰ *Id.* at 247.

¹⁸¹ *Id.* at 248, fn. 31.

issue in *Boca Investorings Partnership v. United States*¹⁸² was similar to the *ACM* transaction, but the District Court for the District of Columbia respected the partnership transactions at issue in that case. The *Boca* court concluded that the partnership had been formed as a valid investment partnership. It had the potential to make a profit or loss from its activities, and the partners were not sheltered from economic risk or guaranteed a specific return on their respective partnership investments.

The Fifth and Eighth Circuits have held that certain foreign tax credit planning strategies implemented to achieve tax benefits must be recognized under the sham transaction doctrine because the transactions were sufficiently imbued with both economic substance and business purpose. The Fifth Circuit in *Compaq Computer Corporation v. Commissioner*¹⁸³ reversed a decision of the Tax Court, and held that a purchase and immediate resale of American depository receipts (“**ADRs**”) of a foreign publicly traded corporation possessed economic substance. Specifically, the court concluded that the transaction had objective economic substance because tax was Compaq’s principal, but not sole, purpose in entering into the transaction.¹⁸⁴ As a result, Compaq could credit the foreign taxes associated with the dividend.¹⁸⁵ The Eighth Circuit came to a similar conclusion in *IES Industries, Inc. v. United States*,¹⁸⁶ which reversed a district court decision that a purchase and sale of ADRs were sham transactions.

There are a number of cases in this area that are difficult to reconcile. Nevertheless, the main point that appears to underlie all of the cases is the principle enunciated by Judge Learned Hand in *Helvering v. Gregory*—*i.e.*, that tax motivated transactions are not *per se* invalid, provided there is some non-tax business purpose for the transaction.¹⁸⁷

2. Analysis.

The sham transaction doctrine should also not apply to recharacterize the Parent Trust’s and the Operating Trusts’ contractual arrangements because all of the component steps necessary to implement the proposed contractual arrangements will actually occur. Moreover, the economic sham concept should not apply to the instant case because the parties have a substantial business purpose in undertaking the investment in the Interests, and, as discussed above, the transactions will have economic substance. Thus, the sham transaction doctrine should not be applied to recharacterize the contractual arrangements and transactions at issue.

C. The Substance-Over-Form and Step Transaction Doctrines.

¹⁸² 167 F. Supp. 2d 298 (D.D.C. 2001).

¹⁸³ 277 F.3d 778 (5th Cir. 2001), *rev’g*, 113 T.C. 214 (1999).

¹⁸⁴ *Id.* at 786-87.

¹⁸⁵ *Id.* at 788.

¹⁸⁶ *IES Industries, Inc. v. United States*, 253 F.3d 350 (8th Cir. 2001), *rehearing denied sub nom.*, *Alliant Energy Corp. v. United States*, 2001 U.S. App. LEXIS 24929 (8th Cir. 2001) (the facts of Compaq Computer and of IES Industries are in large part identical because the strategy upon which the transactions were based was developed and marketed by the same securities broker).

¹⁸⁷ 69 F.2d 809, 810 (2d Cir. 1934) (“Any one may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the Treasury; there is not even a patriotic duty to increase one’s taxes.”) *aff’d*, 293 U.S. 465 (1935).

1. Applicable Rules.

It is an oft-cited principle that taxpayers generally are free to structure their business transactions as they please, even if motivated by tax avoidance considerations.¹⁸⁸ However, as a general rule, the incidence of taxation depends on the substance rather than the form of a transaction. Under the substance-over-form doctrine, a court should respect the form of a transaction where it accurately reflects the underlying substance. “If, however, the substance and form of a transaction do not comport, then the substance of the transaction controls for purposes of U.S. federal tax law.”¹⁸⁹

In determining whether the form of a transaction reflects the substance of the transaction, a taxpayer’s motivations are “largely irrelevant – what instead is important is, in the words of *Gregory*, ‘what was done.’”¹⁹⁰ “To determine the substance of the transactions, we consider all of their aspects that shed any light upon their true character.”¹⁹¹

Courts may recharacterize transactions using the substance-over-form doctrine in cases where mere formalities were designed to make a transaction appear to be other than what it was.¹⁹² For example, in *Court Holding*, a corporation entered into an oral agreement to sell its sole asset; however, before the sale was consummated, the corporation’s tax attorney advised that the sale would result in the imposition of a large income tax on the corporation. To avoid this tax liability, and upon advice of its tax attorney, the corporation changed the transaction by having the corporation declare a liquidating dividend to its shareholders, and having the shareholders enter into a written agreement with the same purchaser on substantially the same terms and conditions previously agreed upon by the corporation. The Supreme Court affirmed the Tax Court’s holding that the sale by the shareholders was in substance a sale by the corporation.

The application of any substance-over-form doctrine is extremely fact specific, which has led courts to render somewhat inconsistent rulings in this area.¹⁹³ There are a number of cases in this area that are difficult to reconcile. Nevertheless, as enunciated by Judge Learned Hand in *Helvering v. Gregory*: “Any one may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the Treasury; there is not even a patriotic duty to increase one’s taxes.”¹⁹⁴

A subset or derivation of the substance over form doctrine is the step transaction doctrine. Courts have applied three separate versions of the so-called “step transaction doctrine” to determine whether purportedly separate steps should be combined as components of a single transaction: (i) the “end result” test, (ii) the “mutual interdependence” test, and (iii) the “binding commitment” test.¹⁹⁵ Nevertheless, the IRS cannot use the step transaction

¹⁸⁸ See *Gregory*, 293 U.S. 465 (1935); *Rice’s Toyota World*, 81 T.C. at 196.

¹⁸⁹ *AWG Leasing Trust v. United States*, 592 F. Supp. 2d 953, 975 (N.D. Ohio 2008).

¹⁹⁰ *Principal Life Ins. Co. & Subs. v. United States*, 70 Fed. Cl. 144, 166 (2006).

¹⁹¹ *Communications Satellite Corp. v. United States*, 625 F.2d 997, 1000 (1980).

¹⁹² *Court Holding Co.*, 324 U.S. 331.

¹⁹³ See, e.g., *ACM Partnership*, 157 F.3d at 263 (3d Cir. 1998); *Boca Investorings Partnership v. United States*, 167 F. Supp. 2d 298 (D.D.C. 2000).

¹⁹⁴ 69 F.2d 809, 810 (2d Cir. 1934) *aff’d*, 293 U.S. 465 (1935).

¹⁹⁵ Stephen S. Bowen, *The End Result Test*, 72 TAXES 722 (December 1994).

doctrine to invent steps that did not occur or recast a transaction into another transaction with the same number of steps.¹⁹⁶

The Tax Court applied both the end result and mutual interdependence tests in *Andantech, L.L.C. v. Commissioner*. In *Andantech*, a U.S. partnership was formed with two non-U.S. partners to cause the foreign partners to recognize a significant portion of the income attributable to a sale-leaseback transaction that the partnership entered into with Comdisco.¹⁹⁷ Almost all of the partnership interests were then contributed to a U.S. indirect subsidiary of a U.S. bank so that the bank could enjoy the benefits of the losses (attributable to interest and depreciation) generated by the partnership's lease arrangement with Comdisco.¹⁹⁸ The Tax Court, applying both the end result and mutual interdependence tests, concluded that a more direct characterization of the transaction was a direct sale-leaseback arrangement between Comdisco and bank's subsidiary.¹⁹⁹ The court analyzed a number of facts in reaching this conclusion, but the salient fact was that all of the parties intended the ultimate result (i.e., that bank's subsidiary would participate in the lease) and the intermediate steps were meaningless apart from tax considerations.

The Second Circuit rejected a somewhat similar argument by the IRS in *Grove v. Commissioner*.²⁰⁰ The IRS in *Grove* attempted to reorder a donation of stock followed by a redemption as a redemption of the stock followed by a gift of cash.²⁰¹ The Tax Court refused to permit the IRS to recast the transaction, reasoning that there was no reason to recast the form of the transaction chosen by the taxpayer, even though the form was tax-motivated.²⁰² The only effect of the IRS's recast would be to create a tax liability in a transaction form that was no more direct than the form chosen by the taxpayer. Thus, the mere fact that a taxpayer considers the federal income tax effects of a transaction in its planning should not transform a non-taxable event into a taxable event.

2. Analysis.

The Parent Trust's and the Operating Trusts' contractual arrangements should be respected according to their form because their form is consistent with the underlying substance, i.e., the acquisition by the Beneficial Owners of undivided fractional interests in the Properties, and there is a substantial business purpose for such form. Moreover, the allocation of all

¹⁹⁶ *Esmark, Inc. v. Comm'r*, 90 T.C. 171, 196 (1988) ("Respondent proposes to recharacterize the tender offer/redemption as a sale of the Vickers shares to Mobil followed by a self-tender. This recharacterization does not simply combine steps; it invents new ones. Courts have refused to apply the step-transaction doctrine in this manner"), *aff'd without published opinion*, 886 F.2d 1318 (7th Cir. 1989). T.C. Memo 2002-97.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ 490 F.2d 241, 247 (2d Cir. 1973).

²⁰¹ *Id.* at 245.

²⁰² *Id.* at 247 ("We are not so naive as to believe that tax considerations played no role in Grove's planning. But foresight and planning do not transform a non-taxable event into one that is taxable. Were we to adopt the Commissioner's view, we would be required to recast two actual transactions — a gift by Grove to RPI and a redemption from RPI by the Corporation — into two completely fictional transactions — a redemption from Grove by the Corporation and a gift by Grove to RPI. Based upon the facts as found by the Tax Court we can discover no basis for elevating the Commissioner's 'form' over that employed by the taxpayer in good faith.").

economic benefits and burdens associated with the Properties correspond to the respective Interests in the Trusts owned by each Beneficial Owner such that the substance of the economic arrangement among the parties is consistent with the form.

The step transaction doctrine should not be applicable to the Parent Trust's and the Operating Trusts' contractual arrangements. In this case, the Beneficial Owners constitute a separate, diverse, and unrelated group desiring to acquire a portion of the Properties as offered by the Parent Trust under a private placement of the Interests. Thus, the ultimate result of the contractual arrangements (i.e., collective ownership of the Properties by an unrelated group of Beneficial Owners) can only be achieved if the intermediate steps of (i) the Operating Trusts acquiring the Properties, and (ii) offering the Interests for sale to the Beneficial Owners is first undertaken. Thus, the step transaction doctrine should not be applied to recharacterize the transaction steps utilized to implement the proposed contractual arrangement. Moreover, even if the IRS were to collapse the transaction steps together, the resulting transaction (a direct purchase of the Properties by the Beneficial Owners) should not significantly change the resulting federal income tax effect of the Parent Trust's and the Operating Trusts' contractual arrangements.

A number of issues discussed in this opinion have not been definitively resolved by statutes, regulations, rulings, or judicial opinions. Accordingly, no assurances can be given that the conclusions expressed herein will be accepted by the IRS, or, if contested, would be sustained by a court, or that legislative changes or administrative pronouncements or court decisions may not be forthcoming that would significantly alter or modify the conclusions expressed herein. Each prospective Purchaser must consult its own tax counsel about the tax consequences of an investment in an Interest, including the tax consequences applicable to such prospective Purchaser under the TCJA.

This opinion is solely for your information and assistance with respect to the sale of Interests in the Properties. Each prospective Purchaser is encouraged to consult with his or her tax advisor in determining whether to purchase an Interest. Other than as set forth herein, this opinion may not be relied upon, circulated, quoted, or otherwise referred to by any other person or for any other purpose, including in connection with any other transaction or arrangement, nor may copies of this opinion be delivered to any other person without our prior written consent. This opinion does not address any tax consequences of the acquisition of an Interest other than those specifically addressed herein. This opinion is not applicable as to any individual tax consequences of a Purchaser or the individual application of the Section 1031 rules to such Purchaser. Our willingness to render the opinion set forth herein neither implies, nor should be viewed as implying, any approval or recommendation of an investment in the Properties.

In rendering our opinion, we have considered the applicable provisions of the Code, final, temporary, and proposed regulations thereunder, pertinent judicial authorities, interpretive

rulings and revenue procedures issued by the IRS and such other authorities as we have considered relevant as of the date of this opinion. It should be noted that statutes, regulations, judicial decisions, and administrative interpretations are subject to change at any time and, in some cases, with retroactive effect. This opinion is not binding upon the IRS or courts of applicable jurisdiction, which may disagree with all or any portion of the opinion expressed herein. We undertake no obligation to update the opinions expressed herein after the date of this letter. Furthermore, our opinion is conditioned upon the accuracy and completeness of the representations set forth in the Representation Letter. This opinion does not address any other tax consequences of the acquisition of an Interest. In addition, the opinions and conclusions contained herein are based upon Baker & McKenzie LLP's review of the Transaction Documents, the Representation Letter, and the documents obtained and reviewed while conducting due diligence in the course of preparing the Offering. As a result, the opinions and conclusions contained herein cannot and do not speak to any facts or analysis relating to documents, arrangements, or other items not obtained prior to the date of this opinion or the Offering.

This opinion is written to support the promotion and marketing of the proposed transaction, and each prospective Purchaser should seek advice based on the Purchaser's particular circumstances from an independent tax advisor.

We are furnishing this opinion solely in connection with the sale of the Interests described herein. Accordingly, the Parent Trust may only circulate this opinion in connection with the sale of the Interests to potential Purchasers. This opinion may be relied upon by Purchasers in connection with their purchase of Interests, but may not be relied upon, circulated, quoted, or otherwise referred to by any other person or for any other purpose, including in connection with any other transaction or arrangement, nor may copies of this opinion be delivered to any other person without our prior written consent.

Very truly yours,

Baker & McKenzie LLP

Baker & McKenzie LLP

EXHIBIT C

FINANCIAL FORECAST

The following Financial Forecast is intended to supplement the disclosures contained in this Property Supplement. The Financial Forecast was prepared based upon the Sponsor's assumptions, including current estimates of income and expenses relating to the operation of the Properties. We believe these assumptions are reasonable and we are not aware of any material factors other than as set forth in this Property Supplement of which this Exhibit C forms a part that would necessarily cause the financial information contained in the Financial Forecast to fail to be indicative of future operating results. However, if the assumptions with respect to one or more Properties do not prove correct, such Properties will have difficulty in achieving their anticipated results. Some of the other underlying assumptions may not materialize, and unanticipated events and circumstances may occur. Therefore, the actual results achieved during the period covered are likely to vary from the Financial Forecast, and the variation may be material. A Beneficial Owner's return on its investment in the Interests will depend upon economic factors and conditions beyond the Sponsor's control.

DST Cash Flow Projections

	Master Lease Rent	Ongoing Fees & Expenses					Cash Flow Available for Distribution	Cash on Cash Return
		Investor	DST		Other Expenses	Sub-total Fees & Expenses		
		Servicing Fee - 0.25%	Management Fee - 0.15%	Trustee Fees				
Year - 1	\$ 4,787,040	\$ (227,000)	\$ (136,200)	\$ (7,500)	\$ (25,000)	\$ (395,700)	\$ 4,391,340	4.50%
Year - 2	4,787,040	(227,000)	(136,200)	(7,725)	(25,750)	(396,675)	4,390,365	4.50%
Year - 3	4,787,040	(227,000)	(136,200)	(7,957)	(26,523)	(397,679)	4,389,361	4.50%
Year - 4	4,787,040	(227,000)	(136,200)	(8,195)	(27,318)	(398,714)	4,388,326	4.49%
Year - 5	4,787,040	(227,000)	(136,200)	(8,441)	(28,138)	(399,779)	4,387,261	4.49%
Year - 6	5,429,503	(227,000)	(136,200)	(8,695)	(28,982)	(400,876)	5,028,627	5.15%
Year - 7	5,429,503	(227,000)	(136,200)	(8,955)	(29,851)	(402,007)	5,027,496	5.15%
Year - 8	5,429,503	(227,000)	(136,200)	(9,224)	(30,747)	(403,171)	5,026,332	5.15%
Year - 9	5,429,503	(227,000)	(136,200)	(9,501)	(31,669)	(404,370)	5,025,133	5.15%
Year - 10	5,429,503	(227,000)	(136,200)	(9,786)	(32,619)	(405,605)	5,023,898	5.15%
Year - 11	6,190,865	(227,000)	(136,200)	(10,079)	(33,598)	(406,877)	5,783,987	5.92%
Year - 12	6,190,865	(227,000)	(136,200)	(10,382)	(34,606)	(408,188)	5,782,677	5.92%
Year - 13	6,190,865	(227,000)	(136,200)	(10,693)	(35,644)	(409,537)	5,781,327	5.92%
Year - 14	6,190,865	(227,000)	(136,200)	(11,014)	(36,713)	(410,927)	5,779,937	5.92%
Year - 15	6,190,865	(227,000)	(136,200)	(11,344)	(37,815)	(412,359)	5,778,505	5.92%
Year - 16	7,094,445	(227,000)	(136,200)	(11,685)	(38,949)	(413,834)	6,680,611	6.84%
Year - 17	7,094,445	(227,000)	(136,200)	(12,035)	(40,118)	(415,353)	6,679,092	6.84%
Year - 18	7,094,445	(227,000)	(136,200)	(12,396)	(41,321)	(416,918)	6,677,528	6.84%
Year - 19	7,094,445	(227,000)	(136,200)	(12,768)	(42,561)	(418,529)	6,675,916	6.84%
Year - 20	\$ 7,094,445	\$ (227,000)	\$ (136,200)	\$ (13,151)	\$ (43,838)	\$ (420,189)	\$ 6,674,256	6.84%

Master Tenant Cash Flows

	Net Operating Income			Capital Expenditures	Property Cash Flow	Master Lease Rent	Master Tenant Cash Flows	% of Equity
	Sub-tenant Gross Rents	Operating Expenses	Sub-total					
Year - 1	\$ 8,038,660	\$ (1,877,628)	\$ 6,161,032	\$ (690,833)	\$ 5,470,199	\$ 4,787,040	\$ 683,159	0.75%
Year - 2	8,325,383	(2,072,808)	6,252,575	(538,903)	5,713,672	4,787,040	926,632	1.02%
Year - 3	8,647,156	(2,125,971)	6,521,185	(384,385)	6,136,800	4,787,040	1,349,760	1.49%
Year - 4	8,941,584	(2,187,288)	6,754,296	(508,363)	6,245,933	4,787,040	1,458,893	1.61%
Year - 5	9,129,350	(2,260,237)	6,869,113	(1,021,750)	5,847,363	4,787,040	1,060,323	1.17%
Year - 6	9,309,706	(2,335,226)	6,974,480	(569,492)	6,404,988	5,429,503	975,485	1.07%
Year - 7	9,843,996	(2,409,057)	7,434,939	(1,336,792)	6,098,147	5,429,503	668,644	0.74%
Year - 8	10,238,179	(2,473,470)	7,764,709	(1,977,069)	5,787,640	5,429,503	358,137	0.39%
Year - 9	10,785,118	(2,549,141)	8,235,977	(675,890)	7,560,087	5,429,503	2,130,584	2.35%
Year - 10	10,444,906	(2,614,715)	7,830,191	(1,530,306)	6,299,885	5,429,503	870,382	0.96%
Year - 11	11,341,537	(2,708,078)	8,633,459	(756,931)	7,876,528	6,190,865	1,685,664	1.86%
Year - 12	11,625,227	(2,781,140)	8,844,087	(1,174,430)	7,669,657	6,190,865	1,478,793	1.63%
Year - 13	12,023,049	(2,865,126)	9,157,923	(1,285,328)	7,872,595	6,190,865	1,681,730	1.85%
Year - 14	12,361,233	(2,964,705)	9,396,528	(1,143,408)	8,253,120	6,190,865	2,062,255	2.27%
Year - 15	12,556,093	(3,040,253)	9,515,840	(972,036)	8,543,804	6,190,865	2,352,939	2.59%
Year - 16	12,591,800	(3,113,126)	9,478,674	(2,700,285)	6,778,389	7,094,445	(316,056)	-0.35%
Year - 17	13,322,173	(3,216,058)	10,106,115	(1,050,555)	9,055,560	7,094,445	1,961,115	2.16%
Year - 18	13,465,579	(3,320,572)	10,145,007	(2,505,223)	7,639,784	7,094,445	545,339	0.60%
Year - 19	14,534,019	(3,434,903)	11,099,116	(1,155,788)	9,943,328	7,094,445	2,848,882	3.14%
Year - 20	\$ 14,942,741	\$ (3,529,568)	\$ 11,413,173	\$ (538,616)	\$ 10,874,557	\$ 7,094,445	\$ 3,780,112	4.16%