**UNITED STATES**
**SECURITIES AND EXCHANGE COMMISSION**
**Washington, D.C. 20549**

# Form 8-K

## Current Report
## Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

**Date of Report (Date of earliest event reported): December 28, 2015**

# Shepherd's Finance, LLC

(Exact name of registrant as specified in its charter)

**Commission File Number: 333-203707**

| **Delaware** | **36-4608739** |
|---|---|
| (State or other jurisdiction of incorporation) | (IRS Employer Identification No.) |

**12627 San Jose Blvd., Suite 203, Jacksonville, FL 32223**
(Address of principal executive offices, including zip code)

**302-752-2688**
(Registrant's telephone number, including area code)

**None**
(Former name or former address, if changed since last report)

**Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:**

☐ **Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)**

☐ **Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)**

☐ **Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))**

☐ **Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))**

**Item 1.01. Entry into Material Definitive Agreement**

On December 28, 2015, Shepherd's Finance, LLC (the "Registrant") entered into the Tenth Amendment to the Credit Agreement with Benjamin Marcus Homes, L.L.C. ("BMH") and Investor's Mark Acquisitions, LLC ("IMA"). Pursuant to the Tenth Amendment to the Credit Agreement, IMA and BMH agreed to purchase, and the Registrant agreed to issue, up to 5 Series B Cumulative Redeemable Preferred Units (the "Preferred Units"). On December 28, 2015, the Registrant and IMA also entered into the Series B Cumulative Redeemable Preferred Unit Purchase Agreement (the "Purchase Agreement") which governs the terms of the issuance of the Preferred Units to IMA, as described in more detail below.

***Authorization of Additional Preferred Units***

In addition to the Tenth Amendment to the Credit Agreement and the Purchase Agreement, the parties entered into Amendment No. 3 to the Amended and Restated Limited Liability Company Agreement ("Amendment No. 3") on December 28, 2015. Pursuant to Amendment No. 3, the Registrant authorized an increase in the aggregate amount of Preferred Units to be issued to IMA and future investors from 10 to 30 Preferred Units. The terms of such future issuances are governed by the terms of Amendment No. 3.

*Distribution Rate*

Distributions on each Preferred Unit (the "Current Distributions") shall be payable quarterly, at an annual fixed rate of 10% (the "Pay Rate"), until the redemption of such Preferred Units in accordance with Section 5 of the Amendment (each such period a "Current Distribution Period"). Current Distributions shall be cumulative from the applicable date of issuance at the Pay Rate, and shall be declared and payable quarterly on February 28, May, 31, August 31, and November 30 of each year or, if not a business day, the next succeeding business day, and commenced on May 31, 2015, and will be computed on the basis of a 360 day year and 90 days in the applicable period.

Current Distributions are payable only as a distribution on income. In the event that the Registrant has no net income during any given Current Distribution Period, the amount due is rolled forward to the next Current Distribution Period, which may continue only through the fourth quarter distribution of any year (which occurs in the following year), but no further. Accumulated but unpaid Current Distributions, if any, on the Preferred Units, will not accrue interest.

*Redemptions*

The Preferred Units may be redeemed by the Registrant, in whole or in part, at the option of the Registrant at any time. The redemption price for the Preferred Units will be equal to a redemption price per unit in cash in an amount equal to (the "Redemption Price") the sum of the Liquidation Amount plus all accumulated and unpaid Current Distributions thereon to the date of redemption. The Preferred Units to be redeemed shall be determined at the sole discretion of the board of managers of the Registrant.

*Covenants*

Amendment No. 3 contains a number of covenants applicable to the Registrant, including, but not limited to, certain covenants that require the Registrant to take all necessary steps to ensure that neither the Registrant nor any of its Subsidiaries shall become an "investment company" within the meaning of such term under the Investment Registrant Act of 1940, and covenants that require the Registrant to give to each holder of Preferred Units written notice with regard to events reasonably expected to have a Material Adverse Effect on the Registrant or its Subsidiaries, or the occurrence of a Change of Control as defined in Amendment No. 3.

*Protective Provisions*

Pursuant to the terms of Amendment No. 3, the Registrant and its subsidiaries are prohibited from undertaking the following activities while the Preferred Units are outstanding without first obtaining the prior written consent of the holders of a majority of the Preferred Units then outstanding (capitalized terms are as defined in Amendment No. 3):

- engaging in a Change of Control; or

- engaging in a sale of all or substantially all of such entity's assets, tender offer for all or substantially all of its Common Units, shares of common stock or other common equity securities, as the case may be, or other similar transaction.

***Issuance of Preferred Units to IMA and BMH***

Pursuant to the Tenth Amendment to the Credit Agreement and the Purchase Agreement, the Registrant agreed to issue and sell to IMA and BMH, in multiple closings, up to 5 Preferred Units at a liquidation preference of $100,000 per unit. Specifically, IMA and BMH agreed to purchase $1/10^{th}$ of a Preferred Unit for $10,000 upon the closing of each lot sold by IMA in the Tuscany subdivision or any subdivisions thereof and each lot sold by BMH in the Hamlets of Springdale subdivision phases 3, 4 and 5.

The foregoing discussion is qualified in its entirety by the Purchase Agreement, Tenth Amendment to the Credit Agreement, and Amendment No. 3, attached hereto as Exhibits 10.1 through 10.3.

**Item 9.01. Financial Statements and Exhibits**

(d) Exhibits.

| | |
|---|---|
| 10.1 | Series B Cumulative Redeemable Preferred Unit Purchase Agreement |
| 10.2 | Tenth Amendment to Credit Agreement |
| 10.3 | Amendment No. 3 to the Amended and Restated Limited Liability Company Agreement |

**Signature(s)**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**SHEPHERD'S FINANCE, LLC**

Date: December 31, 2015

By: /s/ Daniel M. Wallach

Daniel M. Wallach
Chief Executive Officer and Manager

**Exhibit 10.1**

**SHEPHERD'S FINANCE, LLC**

**SERIES B CUMULATIVE REDEEMABLE**
**PREFERRED UNIT PURCHASE AGREEMENT**

This SERIES B CUMULATIVE REDEEMABLE PREFERRED UNIT PURCHASE AGREEMENT (this "Agreement") is made and entered into this 28th day of December, 2015, by and among INVESTOR'S MARK ACQUISITIONS, LLC ("IMA"), a Delaware limited liability company (the "Purchaser"), and SHEPHERD'S FINANCE, LLC, a Delaware limited liability company (the "Company").

WHEREAS, on December 28, 2015, Purchaser and the Company entered into that certain Tenth Amendment to Credit Agreement ("Tenth Amendment") which, among other things, provides that Purchaser shall purchase, upon the closing of each lot sold by IMA in the Tuscany subdivision or any subdivisions thereof and each lot sold by BENJAMIN MARCUS HOMES, L.L.C. ("BMH") in the Hamlets of Springdale subdivision phases 3, 4 and 5, additional Series B Cumulative Redeemable Preferred Units at a liquidation preference of $100,000 per unit (the "Preferred Units") in an amount equal to 1/10th of a Preferred Unit for a purchase price of $10,000;

WHEREAS, the Company, pursuant to Section 3.05 of the Amended and Restated Limited Liability Company Operating Agreement of the Company dated as of March 29, 2012, as amended by Amendment No. 1 to the Amended and Restated Operating Agreement dated December 31, 2014 and Amendment No. 2 to the Amended and Restated Operating Agreement dated March 30, 2015 (the "Operating Agreement"), proposes to issue and sell to the Purchaser up to an aggregate of 5 Preferred Units;

WHEREAS, subject to the terms and conditions and representations and warranties set forth in this Agreement, the Purchaser hereby agrees to purchase up to an aggregate of 5 Preferred Units;

WHEREAS, the terms and provisions of the Preferred Units shall be set forth and established in Amendment No. 3 (the "Amendment"), dated as of the date hereof, to the Operating Agreement, which Amendment and Operating Agreement shall be substantially in the forms attached hereto as Exhibits A-1 and A-2, respectively;

WHEREAS, the Preferred Units are being offered and sold by the Company to the Purchaser without being registered with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "1933 Act"), in reliance upon the Section 4(a)(2) private placement exemption therefrom; and

WHEREAS, certain terms used in this Agreement are defined in Section 14 hereof.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties hereby agree as follows:

**Section 1.** Representations and Warranties of the Company. Except as set forth in the disclosure schedules hereto, the Company represents and warrants to the Purchaser, as of the date hereof and as of each Closing Date (as defined below) and agree with the Purchaser, as follows:

(a) As of December 28, 2015, the only subsidiaries of the Company are the subsidiaries listed on Schedule I hereto (the "Subsidiaries").

(b) The Company has been duly organized and is validly existing as a limited liability company, in good standing under the laws of the jurisdiction of its organization. Each Subsidiary has been duly organized and is validly existing as a corporation, general or limited partnership, or limited liability company, as the case may be, in good standing under the laws of the jurisdiction of its organization, except where the failure to be in good standing would not, individually or in the aggregate, result in a Material Adverse Effect. Each of the Company and the Subsidiaries has full power and authority (limited partnership, corporate, and other) to conduct its business as described in the Registration Statement, and in the case of the Company, to enter into and perform its obligations under this Agreement and to consummate the transactions contemplated hereby. Each of the Company and the Subsidiaries is duly qualified or registered to do business in each jurisdiction in which the conduct of its business requires such qualification or registration, except where the failure to be so qualified or registered would not, individually or in the aggregate, result in a Material Adverse Effect; and, other than the Subsidiaries, as of the date hereof and as of each Closing, the Company does not own and will not own any stock or other beneficial interest in any corporation, partnership, joint venture or other business entity.

(c) As of December 28, 2015, the Company has 2,629 Class A common units outstanding. All of the issued and outstanding Class A common units of the Company have been duly authorized and are validly issued, fully paid, and non-assessable.

(d) This Agreement has been duly authorized, executed, and delivered by the Company and constitutes the legal, valid, and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally or by general principles of equity.

(e) The Operating Agreement has been duly authorized by the Company, and constitutes a legal, valid, and binding obligation, enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally or by general principles of equity. The Operating Agreement is in full force and effect as of the date hereof and the Operating Agreement shall be in full force and effect as of the Closing Date.

(f) The Amendment has been duly authorized by the Company, and, when executed and delivered by the Company, will constitute a legal, valid, and binding obligation, enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally or by general principles of equity.

(g) The Preferred Units have been duly and validly authorized by the Company for issuance and sale pursuant to this Agreement and, when issued and delivered by the Company pursuant to the terms of this Agreement against payment of the consideration therefor specified herein, will be validly issued, and the Purchaser will not have any obligation to make payments to the Company or its creditors (other than the purchase price for the Preferred Units) or contributions to the Company or its creditors solely by reason of the Purchaser's ownership of Preferred Units. The issuance of the Preferred Units will not be subject to the preemptive or other similar rights of any security holder or member of the Company arising by operation of law, under the Operating Agreement or any agreement to which the Company is a party.

(h) There are no transfer taxes or other similar fees or charges under federal law or the laws of any state, or any political subdivision thereof, or any other Governmental Authority required to be paid in connection with the execution and delivery of this Agreement or the issuance and sale by the Company of the Preferred Units.

(i) The execution, delivery, and performance by the Company of this Agreement and consummation of the transactions contemplated hereby: (i) have been duly authorized by all necessary limited liability company or corporate action, as applicable, and will not result in any Default (as defined below) under the limited liability company certificate of formation of the Company or the Operating Agreement or any other organizational document of the Company, or any organizational document of any Subsidiary; (ii) will not conflict with or constitute a breach of, or default (or, with the giving of notice or lapse of time, would be in default) ("Default") or a Debt Repayment Triggering Event (as defined below) under, or result in the creation or imposition of any Lien upon any property or assets of the Company, or the Subsidiaries pursuant to, or require the consent of any other party to, any indenture, mortgage, loan, or credit agreement, deed of trust, note, contract, franchise, lease, or other agreement, obligation, condition, covenant, or instrument to which the Company or any Subsidiary is a party or by which it or any of its respective properties or assets may be bound (collectively, "Agreements or Instruments"), and *provided*, that none of the Company or any Subsidiary shall enter into any Agreement or Instrument that would restrict or limit in any respect the rights of the Purchaser as set forth in this Agreement; and (iii) will not result in any violation of any statute, law, rule, regulation, judgment, order, or decree applicable to the Company or the Subsidiaries of any court, regulatory body, administrative agency, governmental body, arbitrator, or other authority having jurisdiction over the Company or the Subsidiaries or any of their respective properties or assets. No consent, approval, authorization, or other order of, or registration or filing with, any Governmental Authority is required for the execution, delivery, and performance by the Company of this Agreement or the transactions contemplated hereby, except such as have been obtained or made by the Company and are in full force and effect or as may be required under the 1933 Act, the 1934 Act or applicable state securities or blue sky laws. As used herein, a "Debt Repayment Triggering Event" means any event or condition which gives, or with the giving of notice or lapse of time would give, the holder of any note, debenture, or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption, or repayment of all or a portion of such indebtedness.

(j) The Company and the Subsidiaries have complied in all material respects with all laws, regulations, and orders applicable to them or their respective businesses, except as would not have a Material Adverse Effect; none of the Company or the Subsidiaries is in default under any indenture, mortgage, deed of trust, voting trust agreement, loan agreement, bond, debenture, note agreement, or evidence of indebtedness, lease, contract, or other agreement or instrument to which it is a party or by which it or any of its respective properties or assets are bound, violation of which would individually or in the aggregate have a Material Adverse Effect, and no other party under any such agreement or instrument to which the Company or the Subsidiaries are a party is, to the knowledge of the Company, in default in any material respect thereunder; and the Company and the Subsidiaries are not in violation of their respective limited liability certificate of formation, Operating Agreement, or other organizational documents, as the case may be.

(k) There is not pending or, to the knowledge of the Company, threatened any action, suit, or proceeding to which the Company and the Subsidiaries or any of their respective officers, directors, or members is a party, or of which any of their properties or other assets is the subject, before or by any Governmental Authority, that is reasonably likely, individually or in the aggregate, to result in any Material Adverse Effect or to have a material adverse effect on the ability of the Company to perform its obligations under this Agreement or to consummate the transactions contemplated hereby.

(l) Each of the Company and the Subsidiaries holds all material licenses, certificates, and permits from Governmental Authorities that are necessary to the conduct of its business and is in compliance with the terms and conditions of such licenses, certificates, and permits; and none of the Company or the Subsidiaries has received any notice of proceedings relating to the revocation or modification of any such permits, licenses or certificates that, if determined adversely to the Company or any Subsidiary, would, individually or in the aggregate, have a Material Adverse Effect.

(m) There is no claim by any of the Company or the Subsidiaries pending under any insurance policies which (a) has been denied or disputed by the insurer other than denials and disputes in the ordinary course of business consistent with past practice or (b) if not paid, would have a Material Adverse Effect. With respect to each such insurance policy, except as would not, individually or in the aggregate, have a Material Adverse Effect, (a) the Company and the Subsidiaries have paid, or caused to be paid, all premiums due under the policy and have not received written notice that they are in default with respect to any obligations under the policy, and (b) to the knowledge of the Company, as of the date hereof no insurer on the policy has been declared insolvent or placed in receivership, conservatorship or liquidation. None of the Company or the Subsidiaries have received any written notice of cancellation or termination with respect to any existing insurance policy that is held by, or for the benefit of, any of the Company or the Subsidiaries, other than as would not have, individually or in the aggregate, a Material Adverse Effect.

(n) There are no contracts, agreements, or understandings between or among the Company or the Subsidiaries and any person that would give rise to a valid claim against the Company or the Subsidiaries, or the Purchaser for a brokerage commission, finder's fee, or other like payment in connection with the offering, issuance and sale of the Preferred Units or as a result of any transactions contemplated by this Agreement.

(o) Each of the Company and the Subsidiaries has filed all federal, state, local, and foreign income tax returns which have been required to be filed by it, except in any case in which the failure so to file would not have a Material Adverse Effect, and has paid all taxes indicated by said returns and all assessments received by it to the extent that such taxes have become due, except for any such assessment that is currently being contested in good faith or as would not have a Material Adverse Effect. No tax deficiency has been asserted against the Company or any Subsidiary, nor does the Company know of any tax deficiency which is likely to be asserted against the Company or any Subsidiary, except for any such deficiency that would not have a Material Adverse Effect; all tax liabilities, if any, are adequately provided for on the respective books of the entities in all material respects.

(p) None of the Company or any Subsidiary is and, after giving effect to the issuance of the Preferred Units and the application of the proceeds therefrom and the other transactions contemplated by this Agreement, none of the Company or any Subsidiary will be, an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended (the "1940 Act").

(q) No Subsidiary of the Company is currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such Subsidiary's equity interests or capital stock, from repaying to the Company any loans or advances to such Subsidiary from the Company or, from transferring any of such Subsidiary's property or assets to the Company or any other Subsidiary of the Company.

**Section 2.** Representations and Warranties of the Purchaser. The Purchaser represents and warrants to and agrees with the Company as of the date hereof and as of each Closing Date as follows:

(a) The Purchaser has been duly organized and is validly existing as a limited liability company in good standing under the laws of the State of Delaware. The Purchaser has full limited liability company power to execute and deliver this Agreement and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby.

(b) This Agreement has been duly authorized, executed, and delivered by the Purchaser, and constitutes the legal, valid, and binding obligation of the Purchaser, enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally or by general principles of equity.

(c) The Amendment has been duly authorized by the Purchaser and, when executed and delivered by the Purchaser, will constitute the legal, valid, and binding obligation of the Purchaser, enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally or by general principles of equity.

(d) The Purchaser need not give any notice to, make any filing with, or obtain any authorization, consent, or approval of any Governmental Authority in order to consummate the transactions contemplated by this Agreement, except for such as have been obtained and except for such as would not materially impede the transactions contemplated by this Agreement.

(e) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge or other restriction of any Governmental Authority to which the Purchaser is subject or any provision of its organizational documents, except for such violations as would not materially impede the transactions contemplated by this Agreement.

(f) The Purchaser and its representatives have had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the sale of the Preferred Units to the Purchaser and the business, properties, prospects and financial condition of the Company.

(g) The Purchaser is acquiring the Preferred Units for its own account for investment purposes and not with a view to the distribution thereof.

(h) The Purchaser is an "accredited investor" within the meaning of Rule 501(a) under the 1933 Act.

(i) The Purchaser has substantial experience making large investments in companies similar to the Company and acknowledges that it is able to fend for itself, can bear the economic risk of its investment and could afford a complete loss of such investment, and has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment in the Preferred Units. The Purchaser acknowledges that in purchasing the Preferred Units it must be prepared to continue to bear the economic risk of such investment for an indefinite period of time because the Preferred Units have not been registered under the 1933 Act and cannot be sold unless they are subsequently registered under the 1933 Act and applicable state securities laws, or unless exemptions from such registration requirements are available, and then will be only transferable in accordance with the terms of the Operating Agreement, as modified by the Amendment, and pursuant to the terms of this Agreement.

(j) There are no contracts, agreements, or understandings between the Purchaser and any person that would give rise to a valid claim against the Company for a brokerage commission, finder's fee, or other like payment in connection with the offering, issuance and sale of the Preferred Units to the Purchaser.

(k) It is understood that any certificate(s) evidencing the Preferred Units shall initially bear substantially the following legend (in addition to any legend otherwise required under applicable federal or state securities laws or by the Partnership Agreement):

> "THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM OR NOT SUBJECT TO SUCH REGISTRATION REQUIREMENTS."

**Section 3.** Sale and Delivery to the Purchaser.

(a) On the basis of the representations and warranties contained herein and subject to the terms and conditions herein set forth, the Company agrees to sell to the Purchaser, and the Purchaser agrees to purchase from the Company, up to an aggregate of 5 Preferred Units, for the consideration specified in Sections 3(b)-(c) below.

(b) The Purchaser shall pay the Company $10,000 in good funds (the "Purchase Price") on the closing date (the "Closing Date") of each lot sold by Purchaser in accordance with the Credit Agreement (as defined in the Tenth Amendment) for the purchase of $1/10^{th}$ of a Preferred Unit. After receipt of the Purchase Price and within one business day of each Closing Date, the Company will make an entry on its books and records representing $1/10^{th}$ of a Preferred Unit.

(c) The book entry for the Preferred Units to be issued to the Purchaser shall be registered in such name as the Purchaser may request in writing at least one full business day before the applicable Closing Date.

**Section 4.** Payment of Expenses. Each of Purchaser and the Company agrees to pay its own expenses arising in connection with the preparation of this Agreement and in connection with the transactions contemplated hereby, including, without limitation, (i) all expenses incident to the issuance and delivery of the Preferred Units; (ii) all fees and expenses of the Company's counsel and other advisors; (iii) all necessary issue, transfer, and other stamp taxes; and (iv) all reasonable out-of-pocket fees and expenses incurred by the Purchaser, including, without limitation, the fees and expenses of the Purchaser's outside counsel, title report fees and costs, survey costs, and costs incurred in obtaining and/or reviewing due diligence materials, including, without limitation, appraisals, environmental and engineering reports, and travel costs of the Purchaser's personnel or representatives.

**Section 5.** Conditions of the Purchaser's Obligations. The obligations of the Purchaser hereunder are subject to the accuracy of the representations and warranties of the Company herein included, to the performance by the Company of its obligations hereunder, and to the following further conditions:

(a) At each Closing Date, (i) no proceedings shall be pending or, to the knowledge of the Company, threatened against the Company or any Subsidiary before or by any Federal, state, or other commission, board, or administrative agency wherein an unfavorable decision, ruling, or finding would reasonably be expected to result in any Material Adverse Effect, (ii) the representations and warranties set forth in Section 1 hereof shall be accurate as though expressly made at and as of each such Closing Date; and (iii) the Company has complied in all material respects with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to such Closing Date.

(b) At the initial Closing Date, the Purchaser shall have received the Amendment and the Operating Agreement, respectively, duly executed by the Company and on behalf of the existing members (via power of attorney), and the Purchaser.

(c) At each Closing Date, counsel for the Purchaser shall have been furnished with such documents as it may reasonably require in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein included; and all proceedings taken by the Company that are necessary in connection with the issuance and sale of the Preferred Units shall be satisfactory in form and substance to the Purchaser and its counsel.

If any condition specified in this Section 5 shall not have been fulfilled when and as required to be fulfilled, this Agreement may be terminated by the Purchaser by notice to the Company at any time at or prior to the Closing Date, and such termination shall be without liability of any party to any other party, except that the provisions concerning payment of expenses under Section 4 hereof, the provisions concerning indemnification under Section 6 hereof, and the provisions relating to governing law shall remain in effect.

**Section 6.** Indemnification.

(a) The Company agrees to indemnify, defend, and hold harmless the Purchaser from and against all actual third party costs and expenses (including, without limitation, reasonable attorney's fees and expenses) and any actual losses and damages (collectively, "Losses") suffered or incurred by the Purchaser (whether or not due to third party claims) that arise out of or result from (i) any material inaccuracy in or any material breach of, as of the date hereof or as of each Closing Date, any representation and warranty made by the Company in this Agreement; and (ii) any material failure by the Company to duly and timely perform or fulfill any of their covenants or agreements required to be performed by them under this Agreement.

(b) The Purchaser shall indemnify and hold harmless the Company from and against any and all Losses suffered or incurred by the Company (whether or not due to third party claims) that arise out of or result from (i) any material inaccuracy in or any material breach of, as of the date hereof or as of each Closing Date, any representation or warranty made by the Purchaser in this Agreement, and (ii) any material failure by the Purchaser to duly and timely perform or fulfill any of its covenants or agreements required to be performed by the Purchaser under this Agreement.

(c) All claims for indemnification by a party seeking indemnification under this Section 6 shall be asserted and resolved as follows. If an indemnifying party intends to seek indemnification under this Section 6, it shall promptly notify the indemnifying party in writing of such claim. The failure to provide such notice will not affect any rights hereunder except to the extent the indemnifying party is materially prejudiced thereby. If such claim involves a claim by a third party against the indemnified party, the indemnifying party may, within ten (10) days after receipt of such notice and upon notice to the indemnified party, assume, with counsel reasonably satisfactory to the indemnified party, at the sole cost and expense of the indemnifying party, the settlement or defense thereof (in which case any Losses associated therewith shall be the sole responsibility of the indemnifying party), *provided*, that the indemnified party may participate in such settlement or defense through its own counsel and at its own cost and expense; *provided, further*, that, if the indemnified party reasonably determines that representation by the indemnifying party's counsel of both the indemnifying party and the indemnified party may present such counsel with a material conflict of interest, then the indemnifying party shall pay the reasonable fees and expenses of the indemnified party's counsel, which counsel will be approved in writing (including, without limitation, as to fee structure) by the indemnifying party, such approval not to be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, (i) the indemnifying party may, at the sole cost and expense of the indemnifying party, at any time prior to the indemnifying party's timely delivery of the notice referred to in the third sentence of this Section 6(c), file any motion, answer or other pleadings or take any other action that the indemnifying party reasonably believes to be necessary or appropriate to protect its interests, (ii) the indemnifying party may take over the control of the defense or settlement of a third-party claim at any time if it irrevocably waives its right to indemnity under this Section 6 with respect to such claim and (iii) the indemnifying party may not, without the consent of the indemnifying party, settle or compromise any action or consent to the entry of any judgment, such consent not to be unreasonably withheld. So long as the indemnifying party is contesting any such claim in good faith, the indemnifying party shall not pay or settle any such claim without the indemnifying party's consent, such consent not to be unreasonably withheld. If the indemnifying party is not entitled to assume the defense of the claim pursuant to the foregoing provisions or is entitled but does not contest such claim in good faith (including if it does not notify the indemnifying party of its assumption of the defense of such claim within the ten (10)-day period set forth above), then the indemnifying party may conduct and control, through counsel of its own choosing and at the expense of the indemnifying party, the settlement or defense thereof, and the indemnifying party shall cooperate with it in connection therewith. The failure of the indemnifying party to participate in, conduct or control such defense shall not relieve the indemnifying party of any obligation it may have hereunder. Any defense costs required to be paid by the indemnifying party shall be paid as incurred, promptly against delivery of invoices therefor.

(d) The parties hereto agree that any indemnification payments made with respect to this Agreement shall be "grossed up" such that the indemnifying party will pay an amount to the indemnifying party that reflects the hypothetical tax consequences of the receipt or accrual of such indemnification payment, using the maximum applicable statutory rate (or, in the case of an item that affects more than one tax, rates) of tax and reflecting, for example, the effect of deductions available for taxes such as state and local income taxes.

**Section 7.** Confidential Information. The Purchaser or the Company or their respective affiliates, as the case may be, will maintain the confidentiality of Confidential Information in accordance with procedures adopted by such party in good faith to protect confidential information of third parties delivered to such party; *provided*, that the Purchaser or the Company or their respective affiliates, as the case may be, may deliver or disclose Confidential Information to (i) its directors, officers, employees, agents, attorneys and affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by the Preferred Units); (ii) its financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 8; (iii) any other holder of Preferred Units; (iv) any accredited investor to which the Purchaser or the Company or their respective affiliates, as the case may be, sells or offers to sell Preferred Units or any part thereof or any participation therein (if such person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 7); (v) any person from which the Purchaser or the Company or their respective affiliates, as the case may be, offers to purchase any security of the Company or any of its respective Subsidiaries (if such person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 7); (vi) any federal or state regulatory authority having jurisdiction over the Purchaser or the Company or their respective affiliates, as the case may be; and (vii) any other person to which such delivery or disclosure may be necessary or appropriate (1) to effect compliance with any law, rule, regulation or order applicable to the Purchaser or the Company or their respective affiliates, as the case may be; (2) in response to any subpoena or other legal process; (3) in connection with any litigation to which the Purchaser or the Company or their respective affiliates, as the case may be, is a party; (4) in connection with the assumption by the Company of any debt; or (5) if an Event of Default (as such term is defined in the Amendment) or other Optional Repurchase Event (as such term is defined in the Amendment) has occurred and is continuing, to the extent the Purchaser or the Company or their respective affiliates, as the case may be, may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under this Agreement. Without the prior written consent of the Company, on the one hand, and the Purchaser, on the other hand, no party hereto may make an announcement, issue an advertisement or a press release, or otherwise make any publicly available statement concerning this Agreement or the transactions contemplated hereby, other than as required by or pursuant to U.S. federal or state securities laws. Each holder of Preferred Units, by its acceptance of such Preferred Units, will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 7.

**Section 8.** Survival. Subject to the limitations and other provisions of this Agreement, the representations and warranties included in this Agreement, or included in certificates of officers of the Company submitted pursuant hereto, shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of the Purchaser or any person controlling the Purchaser, or by or on behalf of the Company, and shall survive delivery of and payment for the Preferred Units until the date that is two (2) years after each Closing Date; provided, that: (a) the representations and warranties in Section 1(b), Sections 1(e) through 1(h), Section 1(j), Sections 2(a) through 2(c) and Section 2(e) shall survive indefinitely; and (b) the representations and warranties in Section 1(c), Section 1(o), and Section 1(p) shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation or extension thereof) plus sixty (60) days. All covenants, agreements (including as to confidentiality) and indemnities of the parties contained herein shall survive each Closing Date indefinitely or for the period explicitly specified therein; provided, that, with respect to indemnities for inaccuracies in or breaches of representations, such indemnities shall survive for the period specified for the applicable representations.

**Section 9.** Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Purchaser shall be directed to Investor's Mark Acquisitions, LLC, 124 Windermere Court, McMurray, Pennsylvania 15317; and notices to the Company shall be directed to Shepherd's Finance, LLC, 12627 San Jose Blvd., Suite 203, Jacksonville, Florida 32223.

**Section 10.** Parties. This Agreement shall inure to the benefit of and be binding upon the Purchaser, the Company, and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the parties hereto and their respective successors, and for the benefit of no other person, firm or corporation.

**Section 11.** Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware applicable to agreements made and to be performed in said State.

**Section 12.** Counterparts. This Agreement may be signed in two or more counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

**Section 13.** Certain Defined Terms. The terms that follow, when used in this Agreement, shall have the meanings indicated.

"Confidential Information" means information delivered either (i) to the Purchaser by or on behalf of the Company or their respective affiliates or (ii) to the Company or its respective affiliates by or on behalf of the Purchaser, as the context may require, in each case in connection with the transactions contemplated by or otherwise pursuant to this Agreement that is proprietary in nature; *provided*, that such term does not include information that (a) was publicly known prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by the Purchaser or the Company or their respective affiliates, as the case may be, or any person acting on such party's behalf or (c) otherwise becomes known to the Purchaser or the Company or their respective affiliates, as the case may be, other than through the disclosure to such party by the Purchaser or the Company or their respective affiliates, as the case may be.

"Closing Date" shall have the meaning set forth in this Agreement.

"Governmental Authority" shall mean any court, board, agency, commission, office or other authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence, including foreign Governmental Authorities.

"Lien" shall mean any liens, mortgages, pledges, security interests, claims, options, rights of first offer or refusal, charges, conditional or installment sale contracts, claims of third parties of any kind or other encumbrances.

"Material Adverse Effect" with respect to any person shall mean any event, occurrence, development, change or effect that is, or is reasonably likely to be, individually or in the aggregate, materially adverse to the business, prospects, properties, operating assets, financial condition or results of operations of such person and its Subsidiaries, taken as a whole; *provided*, that, in no event shall the following, either individually or in the aggregate, in and of itself be deemed to constitute a "Material Adverse Effect": (i) the failure by the Company to meet independent, third party projections of earnings, revenue or other financial performance measures (*provided*, that the underlying facts, circumstances, operating results or prospects which cause the Company to fail to meet such projections may be considered in determining whether a "Material Adverse Effect" has occurred or is reasonably likely to occur); (ii) fluctuations in the price or net asset value of the Common Stock; and (iii) the failure to obtain any tenant estoppel.

"Operating Agreement" shall have the meaning set forth in the recitals hereto.

"Registration Statement" shall mean the Company's registration statement on Form S-1, as amended (SEC File No. 333-203707).

**Section 14.** Headings. The headings of the sections of this Agreement have been inserted for convenience of reference only and shall not be deemed a part of this Agreement.

[*Signature Page Follows.*]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the date first above written.

**COMPANY:**
**SHEPHERD'S FINANCE, LLC.**

By: /s/ Daniel M. Wallach
Name: Daniel M. Wallach
Title: Chief Executive Officer

**PURCHASER:**
**INVESTOR'S MARK ACQUISITIONS, LLC.**

By: /s/ Mark L. Hoskins
Name: Mark L. Hoskins
Title: Member

**SCHEDULE I**
**TO SECOND SERIES B CUMULATIVE REDEEMABLE**
**PREFERRED UNIT PURCHASE AGREEMENT**

Subsidiaries of the Company:

i. 84 REPA, LLC

**Exhibit 10.2**

**Tenth Amendment to Credit Agreement**

This Tenth Amendment to Credit Agreement ("Tenth Amendment"), dated as of the 28th day of December, 2015, by and between BENJAMIN MARCUS HOMES, L.L.C. ("BMH"), a Pennsylvania limited liability company, INVESTOR'S MARK ACQUISITIONS, LLC ("IMA"), a Delaware limited liability company (each a "Borrower Party" and collectively, the "Borrower Parties"), and Mark L. Hoskins ("Hoskins"), an individual residing in the Commonwealth of Pennsylvania,

AND

SHEPHERD'S FINANCE, LLC, a Delaware limited liability company ("Lender").

WITNESSETH:

WHEREAS, the parties entered into that certain Credit Agreement dated December 30, 2011 as amended by the First Amendment to Credit Agreement dated December 26, 2012, the Second Amendment to Credit Agreement dated April 17, 2013, the Third Amendment to Credit Agreement dated July 24, 2013, the Fourth Amendment to Credit Agreement dated September 27, 2013, the Fifth Amendment to Credit Agreement dated December 30, 2013, the Sixth Amendment to Credit Agreement dated March 27, 2014, the Seventh Amendment to Credit Agreement dated December 31, 2014, the Eighth Amendment to Credit Agreement dated March 25, 2015 and the Ninth Amendment to Credit Agreement dated June 26, 2015 (collectively the "Credit Agreement"); and

WHEREAS, the parties wish to further amend the Credit Agreement as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound hereby, the parties hereto agree as follows:

1. **Defined Terms.** Capitalized terms used herein and not defined herein shall have the meanings set forth in the Credit Agreement.

2. **Modifications.**

A. The chart in Section 2.05(f) will have the last three lines removed, and the following added:

| | |
|---|---|
| December 1, 2013 – May 31, 2015 | $ 4,750,000 |
| June 1, 2015 – October 15, 2016 | $ 6,131,000 |
| October 16, 2016 – March 15, 2017 | $ 5,931,000 |
| March 16, 2017 – September 15, 2017 | $ 5,231,000 |
| September 16, 2017 – thereafter | $ 4,600,000 |

B. Upon each closing of a lot sold by IMA in the Tuscany subdivision or any subdivisions thereof and each lot sold by BMH in the Hamlets of Springdale subdivision phases 3, 4 and 5 pursuant to the Credit Agreement, a Borrower Party shall pay $10,000 to Lender for the purchase of 1/10$^{th}$ of a Series B Cumulative Redeemable Preferred Unit in Lender.

C. Lender shall record all Series B Cumulative Redeemable Preferred Units purchased by a Borrower Party pursuant to this Tenth Amendment in the company records of the Lender and the Borrower Parties acknowledge and agree that no certificates or other evidence of the purchase or existence of such Units need be given or issued by the Lender.

D. The Borrower Parties acknowledge and agree that all Series B Cumulative Redeemable Preferred Units purchased by a Borrower Party pursuant to this Tenth Amendment will be made pursuant to that certain Series B Cumulative Redeemable Preferred Unit Purchase Agreement dated the date hereof and subject to all applicable restrictions, terms, and conditions contained in the Amended and Restated Limited Liability Company Agreement dated as of March 29, 2012, as amended.

3. **Miscellaneous**. This Tenth Amendment to the Credit Agreement, and all other terms and conditions of the Credit Agreement not specifically amended by this Tenth Amendment shall continue and remain in full force and effect. No variation, modification, or amendment to this Tenth Amendment shall be deemed valid or effective unless and until it is signed by the parties hereto. This Tenth Amendment may be executed in counterparts, each of which once so executed shall be deemed to be original and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have caused this Tenth Amendment to be duly and properly executed as of the date first above written.

THE BORROWER PARTIES:

**Benjamin Marcus Homes, L.L.C.:**

By: /s/ Mark L. Hoskins
Name: Mark L. Hoskins
Title: Member

**Investor's Mark Acquisitions, LLC:**

By: /s/ Mark L. Hoskins
Name: Mark L. Hoskins
Title: Member

MARK L. HOSKINS INDIVIDUALLY:

By: /s/ Mark L. Hoskins
Name: Mark L. Hoskins

**Lender:**

Shepherd's Finance, LLC

By: /s/ Daniel M. Wallach
Name: Daniel M. Wallach
Title: Chief Executive Officer

The Guarantors join in the execution of this Tenth Amendment to evidence their agreement to the applicable provisions of this Tenth Amendment.

GUARANTORS:

**Benjamin Marcus Homes, L.L.C.:**

By: Mark L. Hoskins
Name: Mark L. Hoskins
Title: Member

**Investor's Mark Acquisitions, LLC:**

By: Mark L. Hoskins
Name: Mark L. Hoskins
Title: Member

MARK L. HOSKINS INDIVIDUALLY:

By: Mark L. Hoskins
Name: Mark L. Hoskins

Exhibit 10.3

AMENDMENT NO. 3 TO THE AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
SHEPHERD'S FINANCE, LLC
INCREASING THE AUTHORIZED AMOUNT OF
SERIES B CUMULATIVE REDEEMABLE PREFERRED UNITS

In accordance with Section 3.05 and Article IX of the Amended and Restated Limited Liability Company Agreement, dated as of March 29, 2012, as amended (the "Operating Agreement"), of Shepherd's Finance, LLC (the "Company"), the Operating Agreement is hereby amended by this Amendment No. 3 thereto (this "Amendment") to increase the authorized amount of Series B Cumulative Redeemable Preferred Units (the "Preferred Units") to a total of 30 authorized Preferred Units of membership interest in the Company, having the rights, preferences, powers, privileges, restrictions, qualifications, and limitations set forth below. Certain terms used herein are defined in Section 9 of Exhibit I hereto. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Operating Agreement.

WHEREAS, the Company and Investor's Mark Acquisitions, LLC ("IMA") executed that certain Series B Cumulative Redeemable Preferred Unit Purchase Agreement, dated December 31, 2014, pursuant to which the Company agreed to issue, and IMA agreed to purchase, 10 Preferred Units, on the terms set forth therein;

WHEREAS, the Company and IMA executed that certain Series B Cumulative Preferred Unit Purchase Agreement, dated December 28, 2015, pursuant to which the Company agreed to issue, and IMA agreed to purchase, up to an additional aggregate 5 Preferred Units, on the terms set forth therein;

WHEREAS, the Board of Managers of the Company has authorized and the Members hereby agree that an additional 20 Preferred Units of the Company are hereby authorized to be issued to IMA or new investors ("Purchasers") pursuant to the terms hereof; and

WHEREAS, pursuant to Section 3.05 of the Operating Agreement, the Company is authorizing an additional 20 Preferred Units to the Purchasers, with the rights, powers, privileges, restrictions, qualifications, and limitations as set forth below.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Authorization of Preferred Units

Pursuant to Section 3.05 of the Operating Agreement, the Company hereby agrees to authorize 20 Preferred Units to one or more Purchasers. The Preferred Units will have the rights, powers, privileges, restrictions, qualifications, and limitations specified in Exhibit I hereto.

Section 2. Amendment to Operating Agreement

Pursuant to Section 14.09 of the Operating Agreement, the Members holding at least 60% of the outstanding Voting Units hereby amend the Operating Agreement to set forth the rights, powers, privileges, restrictions, qualifications, and limitations of the Preferred Units, as specified in Exhibit I hereto.

Section 3. Continuation of Operating Agreement

The Operating Agreement and this Amendment shall be read together and shall have the same force and effect as if the provisions of the Operating Agreement and this Amendment (including Exhibit I hereto) were contained in one document. Any provisions of the Operating Agreement not amended by this Amendment shall remain in full force and effect as provided in the Operating Agreement immediately prior to the date hereof. In the event of a conflict between the provisions of this Amendment and the Operating Agreement, the provisions of this Amendment shall control.

[*Signature Page Follows*.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 3 to the Operating Agreement as of the 28th day of December, 2015.

**The Company:**

Shepherd's Finance, LLC

By: /s/ Daniel M. Wallach
Name: Daniel M. Wallach
Title: Chief Executive Officer

**The Members:**

Daniel M. Wallach and Joyce S. Wallach

By: /s/ Daniel M. Wallach
Name: Daniel M. Wallach

By: /s/ Joyce S. Wallach
Name: Joyce S. Wallach

2007 Daniel M. Wallach Legacy Trust

By: /s/ Daniel M. Wallach
Name: Daniel M. Wallach
Title: Trustee

**Investor's Mark Acquisitions, LLC:**

By: /s/ Mark L. Hoskins
Name: Mark L. Hoskins
Title: Member

EXHIBIT I

SHEPHERD'S FINANCE, LLC

DESIGNATION OF THE RIGHTS, POWERS, PRIVILEGES,
RESTRICTIONS, QUALIFICATIONS, AND LIMITATIONS
OF THE SERIES B CUMULATIVE REDEEMABLE PREFERRED UNITS

The following are the terms of the Series B Cumulative Redeemable Preferred Units (the "Preferred Units") established pursuant to this Amendment:

(1) Number. The maximum number of authorized Preferred Units shall be 30.

(2) Rank. The Preferred Units will, with respect to distribution rights (to the extent set forth herein) and rights upon liquidation, dissolution, or winding up of the Company, rank: (a) senior to all classes or series of Units not designated as Preferred Units ("Common Units") and to all equity securities issued by the Company the terms of which provide that such equity securities shall rank junior to such Preferred Units; (b) on a parity with all equity securities issued by the Company other than those referred to in clauses (a) and (c); and (c) junior to all equity securities issued by the Company that rank senior to the Preferred Units. The term "equity securities" shall not include convertible debt securities.

(3) Distributions.

(a) Current Distributions.

(i) Commencing from and including the applicable date of issuance of Preferred Units (the "Date of Issuance"), current distributions (the "Current Distributions") on each Preferred Unit shall be payable quarterly, at an annual fixed rate of 10% (the "Pay Rate"), until the redemption of such Preferred Units in accordance with Section 5, as the case may be (each such period a "Current Distribution Period").

(ii) Current Distributions on the Preferred Units shall be cumulative from the applicable Date of Issuance at the Pay Rate, and shall be declared and payable quarterly on February 28, May, 31, August 31, and November 30 of each year or, if not a business day, the next succeeding business day, which commenced on May 31, 2015 (each, a "Current Distribution Payment Date"), and will be computed on the basis of a 360-day year and 90 days in the applicable period. Current Distributions will be payable to holders of record as they appear in the records of the Company at the close of business on the applicable record date by wire transfer pursuant to wire instructions provided by such holders. The record date shall be the last calendar day of the calendar quarter immediately preceding each Current Distribution Payment Date (each, a "Current Distribution Payment Record Date").

(iii) Current Distributions on the Preferred Units are payable only as a distribution on income. In the event that the Company has no net income during any given Current Distribution Period, the amount due is rolled forward to the next Current Distribution Period, which may continue only through the fourth quarter distribution of any year (which occurs in the following year), but no further. If on any Current Distribution Payment Date the Company shall not be permitted under Delaware law to pay all or a portion of any such Current Distributions, the Company shall take such action as may be lawfully permitted in order to enable the Company, to the extent permitted by Delaware law, to lawfully to pay such Current Distributions. Accumulated but unpaid Current Distributions, if any, on the Preferred Units, will not accrue interest.

(b) Distribution Payments. Any Distribution payment made on Preferred Units shall first be credited against the earliest accumulated but unpaid Current Distribution due with respect to such Preferred Units which remains payable. Distributions made in any quarter are based on the Company's net income from the prior quarter. Taxable income to purchaser for any quarter will be allotted to be equal to the following quarter's Distribution.

(4) Liquidation Amount.

(a) Upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company (referred to herein as a "liquidation"), the holders of the Preferred Units will be entitled to be paid out of the assets of the Company legally available for distribution to its unitholders liquidating distributions, in cash, in the amount of $100,000 per unit multiplied by the number of outstanding Preferred Units (the "Liquidation Amount"), plus an amount equal to any accumulated and unpaid Current Distributions to the date of such liquidation, before any distribution or payment is made to holders of Common Units or any other equity securities of the Company ranking junior to the Preferred Units as to the distribution of assets upon a liquidation. After payment of the full amount of the liquidating distributions to which they are entitled, the holders of Preferred Units will have no right or claim to any of the remaining assets of the Company.

(b) In the event that, upon any liquidation of the Company, the available assets of the Company are insufficient to pay the amount of the liquidating distributions on all outstanding Preferred Units, plus an amount equal to any accumulated and unpaid Current Distributions to the date of such liquidation and the corresponding amounts payable on all other equity securities of the Company ranking on a parity with Preferred Units in the distribution of assets upon a liquidation, then the holders of Preferred Units and all other such equity securities of the Company ranking on a parity with Preferred Units shall share ratably in any such distribution of assets in proportion to the full liquidating distributions per unit to which they would otherwise be respectively entitled.

(c) The consolidation or merger of the Company with or into any other entity, or the merger of another entity with or into the Company, or a statutory unit exchange by the Company, or the sale, lease or conveyance of all or substantially all of the property or business of the Company, shall be deemed to constitute a liquidation of the Company.

(d) The Liquidation Amount of the outstanding Preferred Units will not be added to the liabilities of the Company for the purpose of determining whether under the Delaware Revised Uniform Limited Liability Company Act a distribution may be made to unitholders of the Company whose preferential rights upon dissolution of the Company are junior to those of holders of Preferred Units. This Section 4(d) shall be without prejudice to the provisions of Sections 3(a) and 4(a) hereof.

(5) Redemption.

(a) The Company may redeem the Preferred Units, in whole or in part at the option of the Company at any time or from time to time, at a redemption price per unit in cash in an amount equal to (the "Redemption Price") the sum of the Liquidation Amount plus all accumulated and unpaid Current Distributions thereon to the date of redemption. The Preferred Units to be redeemed shall be determined at the sole discretion of the board of managers of the Company.

(b) Notice of a redemption pursuant to Section 5(a) will be mailed by the Company, postage prepaid, not less than ten (10) nor more than thirty (30) days prior to the redemption date, addressed to the respective holders of the Preferred Units to be redeemed at their respective addresses as they appear on the books of the Company. Each notice shall state: (i) the redemption date; (ii) the number of Preferred Units to be redeemed; (iii) the Redemption Price; (iv) the place or places where certificates representing such Preferred Units, if any, are to be surrendered for payment of the Redemption Price; and (v) that Current Distributions on the Preferred Units to be redeemed will cease to accumulate on such redemption date. If fewer than all the Preferred Units are to be redeemed, the notice mailed to each such holder thereof shall also specify the number of Preferred Units to be redeemed from each such holder.

(c) On or after a redemption date, each holder of Preferred Units to be redeemed must present and surrender any certificates, if any, representing the Preferred Units to the Company at the place designated in the notice of redemption and thereupon the Redemption Price of such Preferred Units will be paid to or on the order of the Person whose name appears on such certificates, if any, as the owner thereof by wire transfer pursuant to wire instructions provided by such Person and each surrendered certificate will be canceled. In the event that fewer than all the Preferred Units are to be redeemed, and if a certificate has been issued representing the Preferred Units, a new certificate will be issued representing the unredeemed Preferred Units.

(d) From and after a redemption date (unless the Company defaults in payment of the Redemption Price), all Current Distributions on the Preferred Units subject to such redemption will cease to accumulate and all rights of the holders thereof, except (i) the right to receive the Redemption Price thereof (including all accumulated and unpaid Current Distributions to the redemption date) and (ii) the right to receive any accumulated Deferred Distributions, will cease and terminate and such Preferred Units will not thereafter be transferred (except with the consent of the Company) on the Company's records, and such Preferred Units shall not be deemed to be outstanding for any purpose whatsoever other than with respect to the accumulation of Deferred Distributions on such Preferred Units. In the event that the Company defaults in the payment of the Redemption Price for any Preferred Units surrendered for redemption, such Preferred Units shall continue to be deemed to be outstanding for all purposes and to be owned by the respective holders that surrendered such Preferred Units, and the Company shall promptly return the surrendered certificates representing such Preferred Units, if any, to such holders (although the failure of the Company to return any such certificates to such holders shall in no way affect the ownership of such Preferred Units by such holders or their rights thereunder).

(e) Any Preferred Units that have been redeemed shall, after such redemption, have the status of authorized but unissued Units, without designation as to series, until such units are once more designated as part of a particular series.

(f) The Preferred Units will not have a stated maturity date and will not be subject to any sinking fund.

(6) Covenants of the Company.

(a) *Protective Provisions*. The Company hereby covenants and agrees that, for as long as any Preferred Units are outstanding, the Company shall not, and the Company shall cause its respective Subsidiaries not to, undertake or permit any of the following actions, directly or indirectly, without the prior written consent of the holders of record of at least a majority of the Preferred Units then outstanding:

(i) engage in a Change of Control; or

(ii) engage in a sale of all or substantially all of such entity's assets, tender offer for all or substantially all of its Common Units, shares of common stock or other common equity securities, as the case may be, or other similar transaction.

(b) *Investment Company Act*. The Company hereby covenants and agrees that, for as long as any Preferred Units are outstanding, the Company shall take such steps as shall be necessary to ensure that neither the Company nor any of its Subsidiaries shall become an "investment company" within the meaning of such term under the Investment Company Act of 1940, as amended.

(c) *Notices*. The Company hereby covenants and agrees that, for as long as any Preferred Units are outstanding, the Company shall give to each holder of Preferred Units written notice, within three (3) days of the Company having actual knowledge thereof, of:

(i) the issuance by any Governmental Authority of any injunction, order, decision or other restraint or the initiation of any litigation or similar proceeding seeking any such injunction, order or other restraint that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(ii) the occurrence of an event or series of events relating to or affecting the Company and its Subsidiaries, taken as a whole, that, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect; or

(iii) the occurrence of a Change of Control.

The written notice provided in connection with any of the foregoing events shall specify the nature of the event prompting such notice and the action (if any) that is proposed to be taken with respect thereto.

(7) Transfers.

(a) Pursuant to Section 9.01 of the Operating Agreement, a holder of Preferred Units may not Transfer all or any portion of such holder's Preferred Units without the express written consent of the Company, in its sole discretion. The provisions of Section 9.02 of the Operating Agreement shall not apply to the Preferred Units.

(8) Power of Attorney. Notwithstanding Section 8.01 of the Operating Agreement, no holder of Preferred Units appoints the board of managers of the Company as its attorney-in-fact, and the board of managers shall not execute any document as attorney-in-fact or otherwise on behalf of the holders of Preferred Units pursuant to the powers set forth in Section 8.01 of the Operating Agreement.

(9) Definitions.

"Change of Control" will be deemed to have occurred with respect to the Company on any date after the Initial Date of Issuance on which Daniel M. Wallach, Joyce Wallach, or the Daniel M. Wallach Legacy Trust fail to own at least 51% of the voting common equity of the Company.

"Common Units" has the meaning set forth in Section 2.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise and "Controlling," "Controlled" and "under common Control" shall have meanings correlative thereto. For purposes of this definition, debt securities that are convertible into common stock will be treated as voting securities only when converted.

"Current Distribution Payment Date" has the meaning set forth in Section 3(a)(ii).

"Current Distribution Payment Record Date" has the meaning set forth in Section 3(a)(ii).

"Current Distribution Period" has the meaning set forth in Section 3(a)(i).

"Current Distributions" has the meaning set forth in Section 3(a)(i).

"Date of Issuance" has the meaning set forth in Section 3(a)(i).

"GAAP" means generally accepted accounting principles in the United States of America in effect from time to time.

"Governmental Authority" means any court, board, agency, commission, office or other authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence, including foreign Governmental Authorities.

"Initial Date of Issuance" means December 31, 2014.

"Liquidation" has the meaning set forth in Section 4(a).

"Liquidation Amount" has the meaning set forth in Section 4(a).

"Material Adverse Effect" with respect to any Person means any event, occurrence, development, change or effect that is, or is reasonably likely to be, individually or in the aggregate, materially adverse to the business, prospects, properties, operating assets, financial condition or results of operations of such Person and its Subsidiaries, taken as a whole; *provided*, that, in no event shall the following, either individually or in the aggregate, in and of itself be deemed to constitute a "Material Adverse Effect": the failure by the Company to meet independent, third party projections of earnings, revenue or other financial performance measures (*provided*, that the underlying facts, circumstances, operating results or prospects which cause the Company to fail to meet such projections may be considered in determining whether a "Material Adverse Effect" has occurred or is reasonably likely to occur);.

"Pay Rate" has the meaning set forth in Section 3(a).

"Person" means any individual, partnership, limited liability company, corporation, joint venture, trust, or other entity.

"Preferred Units" has the meaning set forth in the opening paragraph of this Amendment.

"Redemption Price" has the meaning set forth in Section 5(a).

"Set apart for payment" means the recording by the Company in its accounting ledgers of any accounting or bookkeeping entry which indicates, pursuant to an authorization of a distribution by the Company, the allocation of funds to be so paid on any series or class of Units.