SUPPLEMENTAL HANDOUT

DEFINED TERMS WITH EXPLANATORY NOTES

(listed in order of first appearance from PowerPoint presentation)

A. Passive: For purposes of this presentation, the term passive shall mean investors that do not have any involvement with the day-to-day decision making of the business (defined below). For example, the passive investor will not have any influence or say in the sale price of the hybrid red snapper. The passive investor will have no influence or say in the marketing strategy of the business, nor will the passive investor have any say in the business expenses incurred by the operator (subject to certain $X threshold limitations, discussed further in Section C below).

B. Return of Capital: This term relates to the amount of outstanding capital/investment contributed to the business that has not been returned to the investor via net cash flow distributions.

C. Big Picture Items: Big picture items are not day-to-day decisions, but are rather decisions that materially affect the long term health and trajectory of the business. Examples include sale of the business (as an entity), sale of business assets (tanks, nets, etc.), filing for bankruptcy, incurring debt, issuing new ownership interests, purchasing any property that costs more than $X. $X threshold is generally negotiated between the operator and the investor, with the operator naturally inclined to want a higher amount and the investor to want a lower amount.

D. Operator: For purposes of this presentation, the term operator means the person or business entity that controls the day to day functions of the aquaculture business. This could be in the form of a President, Manager, CEO, etc. What is critical is that the operator has control of the day to day decisions of the business, subject to whatever voting rights the investors have successfully negotiated.

E. Business: For purposes of this presentation, the term business could mean any type of business entity, such as an LLC, a corporation, a sole proprietorship, or any other properly recognized business entity. What is critical is that the business is what the operator substantially controls and the investor assists by providing its capital.

F. Net Cash Flow: See PowerPoint page 15. Note – the investor may object to the operator's ability to unilaterally determine reserves to set aside from otherwise net cash flow distributions. If so, then the reserve setting could have an express cap, such as x% of net cash flow when adding back in the reserved amount. Even though the investor may object, the ultimate ownership of the reserved cash is still a contingent interest of the investor by virtue of their ownership interest in the business.

G. Capital Contributions: The term capital contributions refers to the amounts invested by the investors. In exchange for the capital contribution(s), the investor receives an ownership interest (defined below) in the business. Sometimes the interest is "assessable" and sometimes the interest is "non-assessable". Generally, the investor will want their ownership interest to be "non-assessable". Non-assessable ownership interests simply means that the investor's ownership interest is fully paid; the operator (and sometimes by affirmative vote of a certain threshold ownership percentage of the other investors) cannot force the investor to contribute more money to the business by virtue of their ownership interest. An "assessable" ownership interest is where the operator (and sometimes by affirmative vote of a certain threshold ownership percentage of the other investors) can force the investor to contribute more money to the business by virtue of the investor's ownership interest. The operator may be inclined to issue "assessable" ownership interests so that the operator can tap into the investor's contribution obligation to offset operations shortfalls. Issuing assessable versus non-assessable ownership interests is highly fact specific to the needs of the operator, the investor, and the business.

H. Ownership Interest: The term ownership interest refers to the form of ownership that the operator and the investor take. This could be in the form of shares of stock, membership interests, or some other form of equity interest. Debt instruments such as bonds or issuing promissory notes does not make an investor an owner of the business. Some bonds are convertible into ownership interests should the bond fail to be paid when due. Various ownership interests within one business could have different preferences. The different types of ownership interests with different preferences are typically referred to as "classes" or may be some type of "preferred stock". One common preference may be that the operator gets one class of ownership interest with greater voting rights than the investor class of ownership interest. Another common preference may be that the investor class of ownership interest receives net cash flow distributions before the operator's class of ownership interest receives any such distributions; in this preference, the investor class preference of cash distribution from net cash flows typically ends when the unrecovered invested capital is reduced to zero.

I. Guaranteed Payment: The term guaranteed payment refers to a payment "guaranteed" to the operator or some other appointed person (typically by the operator) in exchange for their services as the person/entity in charge of the day-to-day operations of the business. For partnerships, the guaranteed payment is a tax deduction, treated as an ordinary and necessary business expense, and the taxes arising from the guaranteed payment are paid by the person/entity entitled to such payment. Think of guaranteed payment as a substantial equivalent to a salary. For the operator, this is a good way for you to mitigate risk, for, if you can agree with the investors as to a guaranteed payment, the guaranteed payment is typically paid before the preferred return payment or any other payment to the investors.

J. Preferred Return: Sometimes called a priority return, a preferred return is the investor's right to payment, based upon a certain percentage accruing upon the investor's "unrecovered invested capital" (defined immediately below). The preferred return may be either <u>cumulative</u> or <u>non-cumulative</u>. A cumulative preferred return means that if the business fails to distribute sufficient net cash flow (defined below) to the investors in any given year, then the payment deficiency continues each succeeding year until paid in full. A non-cumulative preferred return means that if the business fails to distribute sufficient net cash flow to the investors in any given year, then the preferred payment deficiency for such year effectively terminates, thus failing to tack on to the succeeding year(s) thereafter, unlike cumulative preferred returns. For the aquaculture industry, a cumulative preferred return is particularly risky. If the business' livestock takes more than one year to grow from fingerling to harvest size, then a cumulative return obligation could put the business in a hole so to speak, whereby the business must pay all preferred return payments owed in each year that there was a payment deficiency, thus reducing the operator's (defined below) ability to receive net cash flow based upon the investor's and operator's respective ownership interests (defined below). Notwithstanding, if properly planned, an operator may successfully offer cumulative preferred return by building in the projected total preferred return payment to be paid once enough net cash flow is available to pay it, with ample net cash flow leftover for further net cash flow distributions to investor and operator pursuant to respective ownership interests.

Example: 6% preferred return on $1,000,000.00 unrecovered invested capital invested at the beginning of year X = $60,000.00 preferred return payment owed to investor at the end of year X. If the business was unable to pay any of the $60,000.00 from its net cash flows at the end of year X, then, if the preferred return is cumulative, the $60,000.00 payment originating from year X will be paid in the following year or years once sufficient net cash flow is available to so pay. If the preferred return is non-cumulative, then the $60,000.00 payment for year X terminates at the start of the following year.

K. Unrecovered Invested Capital: Unrecovered invested capital equals the investor's contributions to the business, minus certain payments made by the business to the investor. Unrecovered invested capital is typically reduced when the business distributes excess cash to its investors that originated from a refinancing of the business' assets. Another common reduction occurs when the business distributes cash to its investors resulting from sales of its assets. A less common reduction occurs when the business distributes <u>any</u> cash to its investors. For aquaculture ventures, the "operator" (defined below) should seek reduction of the unrecovered invested capital as quickly as possible, so as to lower the preferred return payments owed to the investors.

Note: Unrecovered invested capital can be thought of as principal to a promissory note with the preferred return being the substantial equivalent of interest accruing on that promissory note. Any reductions in unrecovered invested capital can be thought of as a payment to principal only on a promissory note. The operator, just like a borrower of a promissory note, naturally wants to reduce the amount that the preferred return percentage is accruing on. The lower the unrecovered invested capital and the lower the principal to a promissory note, the less preferred payment or interest payment is owed.