As filed with the Securities and Exchange Commission on April 12, 2023

Registration No. 333-267657

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

AMENDMENT NO. 8 TO FORM S-1
REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933

CALIBERCOS INC.

(Exact name of Registrant as specified in its charter)

Delaware	6282	47-2426901
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

8901 E. Mountain View Rd. Ste 150, Scottsdale AZ 85258
(480) 295-7600
(Address including zip code, telephone number, including area code, of Registrant's Principal Executive Offices)

John C. Loeffler, II
Chairman and Chief Executive Officer
8901 E. Mountain View Rd. Ste. 150, Scottsdale AZ 85258
(480) 295-7600
(Name, address including zip code, telephone number, including area code, of agent for service)

Copies To:

Thomas J. Poletti. Esq.
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Bevilacqua PLLC
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Washington, DC 20036
(202) 869-0888

Approximate date of commencement of proposed sale to the public: As soon as practicable after this Registration Statement is declared effective.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, check the following box. ☐

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act (Check one):

Large accelerated filer	Accelerated filer	Non-accelerated filer	Smaller reporting company	Emerging growth company
☐	☐	☒	☒	☒

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided to Section 7(a)(2)(B) of the Securities Act. ☐

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

EXPLANATORY NOTE

CaliberCos Inc. (the "Company") is filing this Amendment No. 8 to its Registration Statement on Form S-1 (File No. 333-267657) as an exhibits-only filing, solely to file Exhibits 10.13, 10.14 and 10.15. Accordingly, this Amendment No. 8 consists solely of this facing page, this explanatory note, Part II of the Registration Statement, the signature page to the Registration Statement and the filed exhibits.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

The following table sets forth the costs and expenses payable by us (the Registrant), other than underwriting discounts and commissions, in connection with the issuance and distribution of the securities being registered hereunder. All of the amounts shown are estimates, except for the SEC Registration Fee and FINRA filing fee.

	Amounts to be Paid
SEC registration fee	$ 760
FINRA filing fee	8,000
Nasdaq filing fee	50,000
Printing fees and expenses	50,000
Legal fees and expenses	600,000
Accounting fees and expenses	200,000
Transfer agent and registrar fees	6,200
Miscellaneous fees and expenses	300,040
Total	$ 1,215,000

ITEM 14. INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 145 of the Delaware General Corporation Law authorizes a court to award, or a corporation's board of directors to grant, indemnity to directors and officers in terms sufficiently broad to permit such indemnification under certain circumstances for liabilities, including reimbursement for expenses incurred, arising under the Securities Act. Our amended and restated certificate of incorporation that will be in effect on the completion of this offering permits indemnification of our directors, officers, employees and other agents to the maximum extent permitted by the Delaware General Corporation Law, and our amended and restated bylaws that will be in effect on the completion of this offering provide that we will indemnify our directors and officers and permit us to indemnify our employees and other agents, in each case to the maximum extent permitted by the Delaware General Corporation Law.

We have entered into indemnification agreements with our directors and officers, whereby we have agreed to indemnify our directors and officers to the fullest extent permitted by law, including indemnification against expenses and liabilities incurred in legal proceedings to which the director or officer was, or is threatened to be made, a party by reason of the fact that such director or officer is or was a director, officer, employee or agent of CaliberCos Inc., provided that such director or officer acted in good faith and in a manner that the director or officer reasonably believed to be in, or not opposed to, the best interest of CaliberCos Inc. At present, there is no pending litigation or proceeding involving a director or officer of CaliberCos Inc. regarding which indemnification is sought, nor is the registrant aware of any threatened litigation that may result in claims for indemnification.

We maintain insurance policies that indemnify our directors and officers against various liabilities arising under the Securities Act and the Securities Exchange Act of 1934, as amended, that might be incurred by any director or officer in his capacity as such.

The underwriters are obligated, under certain circumstances, under the underwriting agreement to be filed as Exhibit 1.1 hereto, to indemnify us and our officers and directors against liabilities under the Securities Act.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES

The following sets forth information regarding all unregistered securities sold since January 1, 2019:

(1) *Issuances of Options to Purchase Common Stock*—From January 1, 2019 through the date of this registration statement, we granted under our 2017 Plan options to purchase an aggregate of 1,414,202 shares of our common stock to a total of 155 employees, consultants and directors, having exercise prices ranging from$3.35 to $9.25 per share.

(2) From January 1, 2019 through the date of this registration statement, we issued1,651,302 shares of Series B preferred stock at a per share price of $6.73 pursuant to Regulation A+.

(3) From January 1, 2019 through the date of this registration statement, we issued 515,860 restricted stock units to employees of our company.

(4) On June 24, 2022, we issued 475,613 shares of Class A common stock to a former consultant in connection with the settlement of a dispute.

(5) From January 1, 2019 through the date of this registration statement, we issued an aggregate of $30.8 million of promissory notes with a weighted average interest rate of 11.3%.

None of the foregoing transactions involved any underwriters, underwriting discounts or commissions, or any public offering. Unless otherwise specified above, we believe these transactions were exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act (and Regulation D or Regulation S promulgated thereunder) or Rule 701 promulgated under Section 3(b) of the Securities Act as transactions by an issuer not involving any public offering or under benefit plans and contracts relating to compensation as provided under Rule 701. The recipients of the securities in each of these transactions represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof, and appropriate legends were placed on the share certificates issued in these transactions. All recipients had adequate access, through their relationships with us, to information about us. The sales of these securities were made without any general solicitation or advertising.

Item 16. Exhibits and Financial Statement Schedules.

(a) Exhibits.

See the Exhibit Index on the page immediately preceding the signature page for a list of exhibits filed as part of this registration statement on Form S-1, which Exhibit Index is incorporated herein by reference.

(b) Financial Statement Schedules.

All financial statement schedules are omitted because the information required to be set forth therein is not applicable or is shown in the consolidated financial statements or the notes thereto.

Item 17. Undertakings.

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant under the foregoing provisions or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance on Rule 430A and contained in a form of prospectus filed by the registrant under Rule 424(b)(1) or (4) or 497(h) under the Securities Act will be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus will be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time will be deemed to be the initial bona fide offering thereof.

EXHIBIT INDEX

Exhibit Number	Description
1.1**	Form of Underwriting Agreement
3.1	Second Amended and Restated Certificate of Incorporation of CaliberCos Inc. (incorporated by reference to Exhibit 2.1 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on January 3, 2020)
3.1.1	First Amendment to Second Amended and Restated Certificate of Incorporation of CaliberCos Inc. (incorporated by reference to Exhibit 2.1.1 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on January 3, 2020)
3.1.2	Second Amendment to Second Amended and Restated Certificate of Incorporation of CaliberCos Inc. (incorporated by reference to Exhibit 2.1.2 of CaliberCos Inc.'s statement on Form 1-U (File No.24R-00272), filed with the SEC on April 23, 2020)
3.1.3**	Third Amendment to Second Amended and Restated Certificate of Incorporation of CaliberCos Inc.
3.1.4**	Form of Third Amended and Restated Certificate of Incorporation of CaliberCos Inc.
3.2	Bylaws of CaliberCos Inc. (incorporated by reference to Exhibit 2.2 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019).
3.2.1	Amendment No.1 to Bylaws of CaliberCos Inc. (incorporated by reference to Exhibit 2.3 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019)
3.3**	Form of Amended and Restated Bylaws of CaliberCos Inc.
4.1**	Form of Class A common stock Certificate
4.2**	Amended and Restated Stockholders' Agreement dated March 22, 2023, by and among the Company, John C. Loeffler, Jennifer Schrader and Donnie Schrader
4.2.1	Stock Purchase Agreement dated September 21, 2018, by and among the Company and Donnie Schrader (incorporated by reference to Exhibit 3.2 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019)
4.3	Form of Warrant, exercise price of $1.70 (Tranche 1) (incorporated by reference to Exhibit 3.3 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019)
4.4	Form of Warrant, exercise price of $1.70 (Tranche 2) (incorporated by reference to Exhibit 3.4 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019)
4.5	Form of Subscription Agreement for CaliberCos Inc.'s Series B Preferred Stock (incorporated by reference to Exhibit 4.1 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on January 24, 2020)
5.1**	Opinion of Manatt, Phelps & Phillips LLP

10.1+	CaliberCos Inc. Amended and Restated 2017 Stock Incentive Plan (incorporated by reference to Exhibit 6.1 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on December 5, 2019)
10.2+	Mortgage Note ($14,000,000) dated June 19, 2018, payable to Cerco Capital Inc. (incorporated by reference to Exhibit 6.2 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019)
10.2.1+	Guaranty of Recourse Obligations dated June 29, 2018, by Chris Loeffler and Jennifer Schrader, in favor of Cerco Capital Inc. (incorporated by reference to Exhibit 6.2.1 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019)
10.3+	Promissory Note ($62,245,000) dated September 2018, payable to RCC Real Estate, Inc. (incorporated by reference to Exhibit 6.3 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019)
10.4.1+	Guaranty of Recourse Obligations dated September 2018, by CaliberCos Inc., Jennifer Schrader, John C. Loeffler II, and Frank Heavlin, for the benefit of RCC Real Estate Inc. (incorporated by reference to Exhibit 6.3.1 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019)
10.5	Office Lease Agreement by and among Pollock Gateway II LLC and CaliberCos Inc. dated July 13, 2018 (incorporated by reference to Exhibit 6.4 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019)

10.6	First Amendment to Office Lease Agreement, by and among Pollock Gateway II LLC and CaliberCos Inc. dated November 14, 2018 (incorporated by reference to Exhibit 6.4.1 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on June 13, 2019)
10.7+	Executive Employment Agreement dated January 1, 2019 by and among CaliberCos Inc. and Jennifer Schrader (incorporated by reference to Exhibit 6.5 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on August 19, 2019)
10.8+	Executive Employment Agreement dated January 1, 2019 by and among CaliberCos Inc. and John C. Loeffler II (incorporated by reference to Exhibit 6.6 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on August 19, 2019)
10.9+	Executive Employment Agreement dated January 1, 2019 by and among CaliberCos Inc. and Roy Bade (incorporated by reference to Exhibit 6.7 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on August 19, 2019)
10.10+	Executive Employment Agreement dated January 1, 2019 by and among CaliberCos Inc. and Jade Leung (incorporated by reference to Exhibit 6.8 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on August 19, 2019)
10.11**	Form of Indemnification Agreement between CaliberCos Inc. and its directors and officers
10.12	Form of Escrow Agreement by and among CaliberCos Inc., SI Securities, LLC and The Bryn Mawr Trust Company of Delaware (incorporated by reference to Exhibit 8.1 of CaliberCos Inc.'s offering statement on Form 1-A (File No.024-11016), filed with the SEC on January 3, 2020)
10.13	Caliber/ Encore Opportunistic Growth Fund Limited Liability Company Agreement dated May 1, 2022 by and between CaliberCos Inc. and Encore Caliber Holdings, LLC
10.14	Form of Managing Dealer Agreement by and among CaliberCos Inc., Skyway Capital Markets, LLC and Issuer
10.15	Sponsor Consulting Agreement dated December 1, 2022 by and among CaliberCos Inc. and Skyway Capital Markets, LLC
21.1**	List of Subsidiaries of CaliberCos Inc.
23.1**	Consent of Manatt, Phelps & Phillips LLP (included in Exhibit 5.1)
23.2**	Consent of Deloitte & Touche LLP, independent registered public accounting firm
24.1**	Power of Attorney
99.1**	Consent of William J. Gerber, director nominee
99.2**	Consent of Michael Trzupek, director nominee
99.3**	Consent of Daniel P. Hansen, director nominee
107**	SEC Filing Fee Table

** **Previously filed.**
\+ Indicates management contract or compensatory plan.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Scottsdale, Arizona, on April 12, 2023.

CALIBERCOS INC.

By: /s/ John C. Loeffler, II
Name: John C. Loeffler
Title: Chairman and Chief Executive Officer

As required under the Securities Act of 1933, this registration statement has been signed below by the following persons in the capacities and on the dates indicated:

Signature	Title	Date
/s/ John C. Loeffler, II John C. Loeffler, II	Chairman and Chief Executive Officer (*Principal Executive Officer*)	April 12, 2023
/s/ Jade Leung Jade Leung	Chief Financial Officer (*Principal Accounting Officer*)	April 12, 2023
/s/ Jennifer Schrader Jennifer Schrader	President, Chief Operating Officer and Vice-Chairperson	April 12, 2023

Exhibit 10.13

Execution Version

Caliber/Encore Opportunistic Growth Fund

Limited Liability Company Agreement

(Behavioral Health Centers)

Dated effective as of May 1, 2022

Caliber/Encore Opportunistic Growth Fund
Limited Liability Company Agreement

TABLE OF CONTENTS

Caliber/Encore Opportunistic Growth Fund
Limited Liability Company Agreement

Execution Version

Caliber/Encore Opportunistic Growth Fund
Limited Liability Company Agreement

This Limited Liability Company Agreement of **Caliber/Encore Opportunistic Growth Fund**, an Delaware limited liability company (the "Company"), is dated effective as of May 1, 2022 (the "Effective Date"), by and among **Caliber Services, LLC**, a Delaware limited liability company ("Caliber"), as a Member and the initial Manager, and **Encore Caliber Holdings, LLC**, a Delaware limited liability company ("Encore"), as a Member (Caliber and Encore in their capacities as Members are collectively referred to herein as the "Members").

WITNESSETH THAT:

WHEREAS, the Members desire, by execution of this Agreement, to form a limited liability company pursuant to the Delaware Limited Liability Company Act, 6 Del. C. § 18-101 et seq. (as from time to time amended and including any successor statute, the "Act");

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

ARTICLE 1
DEFINITIONS

Certain capitalized terms used in this Agreement will have the meanings set forth below or in the Section of this Agreement referred to below.

1.1 "Accountant(s)" means such independent certified public accountants for the Company and any Subsidiaries as may be engaged from time to time by Encore.

1.2 "Act" is defined in the recitals to this Agreement.

1.3 "Acquisition Fee" is defined in Section 8.8(e).

1.4 "Additional Capital Contributions" is defined in Section 3.2.

1.5 "Adjustment Year" has the meaning set forth in Section 6225(d) of the Code.

1 . 6 "Affiliated Person" or "Affiliate" means, with respect to any Person, any other Person, controlling or controlled by or under common control with, such Person. For purposes of this definition, the term "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether as an officer, director, member, or otherwise through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" will have meanings correlative to the foregoing.

1.7 "Agreement" means this Agreement, as it may be amended, restated or supplemented from time to time.

1.8 "Anti-Bribery Laws" means all provisions of any applicable anti-bribery and anti-corruption laws, regulations or provisions enacted in any jurisdiction, including (if applicable) the U.S. Foreign Corrupt Practices Act and the UK Bribery Act 2010.

Execution Version

1.9 "Asset or Assets" means any assets or property (tangible or intangible, choate or inchoate, fixed or contingent) held or owned by or for the benefit of the Company including the Company's direct or indirect equity interests in the Subsidiaries.

1.10 "Fund Management Fee" is defined in Section 8.8(a).

1.11 "Association" is defined in Section 12.6.

1.12 "Available Cash" means with respect to a fiscal period, the excess of (i) the cash and short- term investments of the Company over (ii) the aggregate of cash expenditures required to be made by the Company for such fiscal period plus any reserves established in accordance with Section 4.5.

1.13 "Bid Preparation and Closing Expense Budget" means a budget for the Bid Preparation and Closing Expenses of a Targeted Asset.

1.14 "Bid Preparation and Closing Expenses" means any and all of the following expenses incurred by the Manager, any Member, the Company or any Subsidiary for a Targeted Asset, consisting of: (i) reasonable legal and other third-party and out-of-pocket expenses incurred in connection with the due diligence review and analysis of a Targeted Asset and the determination of the Purchase Price of such Targeted Asset, (ii) reasonable legal and other third-party and out-of-pocket expenses incurred in connection with the negotiation and documentation of the Purchase Agreement for such Targeted Asset and the formation by the Company of a Subsidiary to hold title to such Targeted Asset; *provided, however*, if Encore internal legal, financial or other resources are used in connection with any transaction Encore will invoice the Company at market prices, (iii) all deposits due with respect to such Targeted Asset, and (iv) all closing costs (including escrow and title charges, acquisition and financing fees) to acquire such Targeted Asset.

1.15 "Board Book" means a written proposal for each potential Targeted Asset containing information specific to such asset, including all due diligence, underwriting, asset valuation information, market information, IRR projections and other information on a potential Targeted Asset reasonably required by Encore in a form reasonably satisfactory to Encore.

1.16 "Book Value" means, as of any particular date with respect to an Asset, the adjusted tax basis for federal income tax purposes of such Asset, except as otherwise provided herein. The initial Book Value of each Asset contributed (or deemed contributed) to the Company by or on behalf of a Member will be the fair market value of such Asset as stated on Schedule 3.1 (or, if no such value is stated on Schedule 3.1, as otherwise reasonably determined by the Manager, subject to final approval by Encore. The Book Values of all Assets will be adjusted to equal their respective fair market values, as reasonably determined by the Manager, subject to the final approval of Encore, as of the following times: (i) the acquisition of an additional interest in the Company by any new or existing Member in exchange for services or for more than a *de minimis* additional Capital Contribution; and (ii) the distribution by the Company to a Member of more than a *de minimis* amount of Assets, including money, as consideration for an interest in the Company; and (iii) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g). The Book Values of the Assets will be increased (or decreased) to reflect any adjustments to the adjusted basis of such Assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulation Section 1.704-1(b)(2)(iv)(m); *provided, however*, that the Book Values will not be adjusted pursuant to this sentence to the extent that the Manager or Encore determines that such an adjustment would be duplicative of an adjustment made pursuant to the preceding sentences. If the initial Book Value of an Asset is not its cost, or if the Book Value of an Asset is adjusted pursuant to either of the two preceding sentences, such Book Value will thereafter be adjusted for Depreciation with respect to such Asset rather than for the cost recovery deductions to which the Company is entitled for income tax purposes with respect thereto. The Book Value of any Asset distributed to a Member will be adjusted to equal the fair market value of such Asset on the date of the distribution, as reasonably determined by the Manager, subject to the final approval of Encore,

1.17 "Budgets" means the Company Budget and each Project Budget.

1.18 "Business Day" means any day except a Saturday, Sunday or other day which in Dallas, Texas, Phoenix, Arizona or the City of New York is a legal holiday or a day on which banking institutions are authorized by law or executive action to close.

1.19 "Caliber" means Caliber Services, LLC, a Delaware limited liability company.

1.20 "Capital Account" is defined in Section 3.4.

1.21 "Capital Contributions" means the total amount of cash and other property contributed to the Company by the Members pursuant to Sections 3.1 and 3.2.

1.22 "Carried Interest Proceeds" means, as of any date, any and all amounts paid to the Company by any Subsidiaries on account of the Company's carried interest, incentive allocations and fees, promoted interest, performance fee, and all other fees or similar rights of participation or profit-sharing in connection with the Projects or any other directly or indirectly Company owned Asset, which shall include the sum of (i) all distributions paid or payable to the Company by any Subsidiary in excess of the percentage capital invested by the Company in such Subsidiary relative to all invested capital in such entity and (ii) all fees payable to the Company by each Subsidiary.

1.23 "Certificate" means the Certificate of Formation of the Company as provided for pursuant to the Act, as originally filed with the office of the Secretary of State of the State of Delaware and as amended, supplemented and restated from time to time.

1.24 "Closing Date" means, with respect to any Targeted Asset, the date on which a Subsidiary consummates the acquisition (whether by assignment, participation or otherwise) of such Targeted Asset.

1.25 "Code" means the Internal Revenue Code of 1986, as amended and in effect from time to time.

1.26 "Company" means the limited liability company formed under this Agreement, as such company may from time to time be constituted.

1.27 "Company Budget" means a budget for Company income and expenses not accounted for in a Project Budget.

1.28 "Company Required Equity Investment" means the amount set forth in the respective Project Budget or such other amount determined by Encore and as such equity is required to be funded by the Company; provided, however, in each case, unless waived by mutual consent of Encore and Caliber, Caliber and its Affiliates shall contribute 2.5% of total Project equity with the option to increase total Project equity up to 15% and Encore and its Affiliates shall contribute 97.5% of total Project equity; with any additional JV Partner contributions to be at Encore's sole discretion.

1.29 "Confidential Information" means all information which is furnished by or on behalf of any Member to the Manager or the other Member, or to which the Manager has access while performing its obligations under this Agreement (including, but not limited to, information related to the Company, any Subsidiary, the Project or the Assets) irrespective of the form of communication, including, but not limited to, the following: (a) financial records of the Company, Any Subsidiary, any Member or any of their respective Affiliates, (b) information relating to the business of the Company, any Subsidiary, any Member or any of their respective Affiliates; (c) legal strategy of the Company, any Subsidiary, any Member or any of their respective Affiliates; (d) investment return information, information related to specific investments, employee and advisory board information, partnership agreements and their terms, financial statements and client letters, in each case of the Company, any Subsidiary, any Member or any of their respective Affiliates; (e) other financial information, methodologies, investment philosophies, ideas and strategies of the Company, any Subsidiary, any Member or any of their respective Affiliates; (f) any username and password furnished by or on behalf of any Member to the Manager or the other Member; (g) the internal system and network configurations and structure, and the existence of and details regarding any technological systems, programs, apparatus, controls, or similar systems, in each case of the Company, any Subsidiary, any Member or any of their respective Affiliates; (h) the internal policies and procedures of the Company, any Subsidiary, any Member or any of their respective Affiliates; and (i) all analyses, compilations, data, studies and other documents which are prepared by a Member, the Manager while performing its obligations under this Agreement and are based in whole or in part on such proprietary and confidential information, including any report or summary prepared by the Manager for the Company, any Subsidiary, any Member or any of their respective Affiliates in connection with this Agreement. The Manager and each Member recognizes that the Company, any Subsidiary or any Member may have received, and in the future will receive, from third parties certain confidential or proprietary information subject to a duty on the Company, such Subsidiary or such Member, as applicable, to maintain the confidentiality of such information and to use it only for certain limited purposes. The Manager and each Member agree that any such confidential or proprietary information of third parties entrusted to the Company, any Subsidiary or any Member shall also constitute "Confidential Information." "Confidential Information" shall not include: (i) any information that is or becomes generally available to the public other than as a result of a disclosure by the Manager, a Member, or any of their Affiliates in violation of the confidentiality obligations set forth in this Agreement; (ii) any information independently made lawfully available to a party hereto as a matter of right by a third party; (iii) any information which is ordered to be released by requirement of a governmental agency or court of law; or, (iv) any information provided to professional advisors, such as attorneys and accountants of a party hereto.

1.30 "Construction Management Agreement" means each Construction Management Agreement between a Project owning Subsidiary and each of Encore, Manager or their respective Affiliates which shall in the form mutually agreed by the Members with respect to the Projects.

1.31 "Construction Management Fee" is defined in Section 8.8(c).

1.32 "Contributing Members" is defined in Section 3.3(a).

1.33 "Contribution Obligation" is defined in Section 6.2(b).

1.34 "Debt Placement Fee" is defined in Section 8.8(g).

1.35 "Defaulted Amount" is defined in Section 3.7(a).

1.36 "Depreciation" means, for each fiscal year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an Asset for such year or other period, except if the Book Value of an Asset differs from its adjusted basis for federal income tax purposes at the beginning of any such year or other period, Depreciation will be an amount that bears the same relationship to the Book Value of such Asset as the depreciation, amortization or other cost recovery deduction computed for tax purposes with respect to such Asset for the applicable period bears to the adjusted tax basis of such Asset at the beginning of such period, or if such Asset has a zero adjusted tax basis, Depreciation will be an amount determined under any reasonable method selected by the Manager.

1.37 "Development Agreement" means each Development Agreement between a Project owning Subsidiary and each of Encore, Manager or their respective Affiliates which shall in the form mutually agreed by the Members with respect to the Projects.

1.38 "Development Fee" is defined in Section 8.8(d).

1.39 "Discretionary Sale" is defined in Section 11.1(a).

1.40 "Discretionary Sale Notice" is defined in Section 11.1(a).

1.41 "Discretionary Sale Projects" is defined in Section 11.1(a).

1.42 "Disposition" means any of the following: (i) a sale, exchange, transfer, assignment or other disposition of all or a portion of any Asset, other than tangible personal property that is not sold or transferred in connection with the sale or transfer of property or a leasehold interest in property and is otherwise sold or transferred in the ordinary course of business, (ii) any condemnation or deeding in lieu of condemnation of all or a portion of any Asset, (iii) any Financing of any Asset, (iv) the receipt of proceeds (other than insurance proceeds) due to any fire or other casualty to a Project or any other Asset, and (v) any other transaction involving an Asset, the proceeds of which, in accordance with GAAP or IFRS, are considered to be capital in nature.

1.43 "Disposition Fee" is defined in Section 8.8(f).

1.44 "Dollars" or "$" means United States dollars.

1.45 "Effective Date" is defined in the first paragraph of this Agreement.

1.46 "Emergency Expenditure" means an unbudgeted expenditure incurred or necessary to prevent or remedy a bona fide emergency involving a Project or Projects (or portion thereof) or any person therein or thereon, (i) requiring expenditures in an amount no greater than $20,000 in any single instance or (ii) requiring expenditures in such other greater amount proposed by Manager and approved by Encore.

1.47 "Encore" is defined in the first paragraph of this Agreement.

1.48 "Entity" means any general partnership, limited partnership, limited liability partnership, corporation, professional corporation, joint venture, limited liability company, professional limited liability company, trust, business trust, cooperative or association or other similar entity constituted under the laws of any state, the United States or any foreign country.

1.49 "ERISA" means the Federal Employee Retirement Income Security Act of 1974, as amended and in effect from time to time.

1.50 "Excluded Projects" means Projects listed on Exhibit B, which are not competitive with any Company investment, and any Projects not acquired by the Company or its Subsidiary after compliance with Section 8.9 of this Agreement, as such list may be revised from time to time.

Execution Version

1.51 "Exclusivity Period" means the period beginning on the Effective Date and ending upon the earliest of (A) a determination by the Members that the Members elect to terminate the Exclusivity Period, or (B) dissolution of the Company and termination of this Agreement pursuant to the provisions of Section 10.1.

1.52 "Fees" is defined in Section 8.8(c) of this Agreement.

1.53 "Final Removal Date" is defined in Section 8.10(a).

1.54 "Final Termination Notice" is defined in Section 8.10.

1.55 "Financing" means any indebtedness, financing or refinancing by debt, bonds, sale and leaseback, or other form of financing with respect to a Project or any debt or other similar monetary obligation of the Company or any Subsidiary (but excluding trade payables and accrued expenses incurred in the ordinary course of business).

1.56 "First Refusal Notice" is defined in Section 8.9(a)(ii) of this Agreement**.**

1.57 "Force Majeure" shall mean an unforeseeable event or cause that is beyond the reasonable control of the affected Party including, without limitation, those caused by: (a) acts of God, war, riots, insurrection, terrorism, rebellion, floods, hurricanes, tornadoes, earthquakes, lightning, pandemic, epidemics, actual or threatened health emergency, quarantine, or other health risks or natural calamities; (b) explosions or fires; (c) strikes, lockouts, or other labor disputes, but excluding strikes, lockouts or work stoppages involving only employees of the Company, Subsidiaries, or the Members or its Affiliates; or (d) actions or inactions of any government authority, including permitting or inspection delays beyond the normal applicable waiting period and government preemption.

1.58 "GAAP" means generally accepted accounting principles, consistently applied, as from time to time in effect in the United States of America, including the statements and interpretations of the United States Financial Accounting Standards Board, provided that material changes in presentation are approved by the Members.

1.59 "Good Faith" means for purposes of this Agreement, that the Manager or such other determining party believed such determination to be in, or not opposed to, the best interests of the Company and, as applicable, within the scope of such party's authority conferred on him, her or it by the Company and such conduct did not constitute fraud, gross negligence, willful misconduct or a material breach of any agreements contained herein or in any other agreements with the Company or Subsidiary or other party affecting this Agreement.

1.60 "IFRS" means the International Financial Reporting Standards as issued by the International Accounting Standards Board (IASB), applied on a consistent basis.

1.61 "Initial Capital Contribution" means the initial Capital Contribution of each Member as described in Section 3.1.

1.62 "Investment IRR" means 8% (or such other mutually agreed percentage) as the discount rate at which the net present value of all distributions made to the Members equals the net present value of all Capital Contributions made (or deemed made pursuant to the Agreement) by the Members, calculated from the date of the Capital Contribution has been reserved by the Company for a Project. The calculation of Investment IRR shall not take into account any federal, state or local income taxes imposed on the Members as a result of receiving such distributions or on the Member's share of the taxable income of the Company.

Execution Version

1.63 "Joint Venture Agreement" means this Agreement and any other agreement entered into from time to time (i) by Caliber or any of its Affiliates, on the one hand, and Encore or their Affiliates, on the other hand, relating to the Company, a Project or a Subsidiary, and (ii) by the Company or any of its Affiliates, on the one hand, and Caliber or any of its affiliates, on the other hand, in each case relating to the Company, a Project or a Subsidiary including, without limitation, each Project Asset Management Agreements, Loan Guarantees, and any other Manager Affiliate Agreement.

1.64 "Key Person(s)" means John C. Loeffler II, and such other person who replaces a Key Person in accordance with Section 8.2(a).

1.65 "Liquidating Transaction" is defined in Section 6.2(a).

1.66 "Loan" means, collectively:

(a) any loan (i) which is owing to the Company, or a Subsidiary or (ii) in which the Company or a Subsidiary acquires (whether by assignment, participation or otherwise) any right, title or interest, (whether pursuant to a written agreement or otherwise), in each case whether or not such loan is evidenced by a promissory note or is secured in full or in part;

(b) all right, title and interest of the Company, or a Subsidiary in, to and under all agreements and instruments from time to time evidencing or relating to such loan, including credit agreements, promissory notes, letters of credit, guarantees, security agreements, interest rate protection agreements and financing statements, each as from time to time in effect;

(c) all right, title and interest of the Company, or a Subsidiary in, to and under all liabilities, obligations and indebtedness owing to the Company, or a Subsidiary under or in connection with such loan and the agreements and instruments described in clause (b) above, including obligations in respect of principal, premium, interest, reimbursement obligations under letters of credit and interest rate protection agreements, fees, charges, indemnities, expenses and other amounts; and,

(d) all right, title and interest of the Company, or a Subsidiary in, to and under all Assets from time to time subjected to a security interest, mortgage or charge to secure the payment or performance of such loan or any other liabilities, obligations or indebtedness owing to the Company, or a Subsidiary under any agreement or instrument described in clause (b) above.

(e) Loans shall not include Member Loans or any third-party acquisition financing or refinancing pursuant to which the Company, a Subsidiary is the borrower.

1.67 "Loan Guarantee" means any guarantee, surety, indemnity, letter of credit or other assurance to any third party of the payment or performance of any obligations of

the Company or any Subsidiary (to cover non-recourse carveouts or otherwise) under any Financing, subject to the prior written approval of Encore.

1.68 "Manager" means the Person designated as Manager in the first paragraph of this Agreement, together with any Person who becomes a substituted or an additional Manager as provided herein, in each instance in such Person's capacity as a Manager of the Company.

1.69 "Manager Affiliate Agreement" Means any contract or agreement between (x) the Company or any Subsidiary and (y) Caliber, any member of Caliber, or any Affiliate of Caliber, or any Affiliate of any member of Caliber.

1.70 "Manager Indemnity Obligation" is defined in Section 8.7(b).

1.71 "Material Liability" means a liability that is, or is reasonably expected to be, material and adverse to the business, operations, results of operations, obligations, capital, properties, assets or financial condition of the Company, taken as a whole.

1.72 "Member" means the Persons designated as Members in the first paragraph of this Agreement, together with any Person who becomes a substituted or an additional Member as provided herein.

1.73 "Member Consent" means: (i) so long as Caliber remains the Manager of the Company, the consent of Encore and Caliber; and (ii) upon removal of Caliber as Manager of the Company in accordance with the terms of this Agreement, the consent of Encore in its sole discretion.

1.74 "Member Loan" is defined in Section 3.3(b).

1.75 "Net Cash Flow" means, with respect to any calendar month or other period, all cash revenues, released reserves and other funds received by the Company (other than funds received as Capital Contributions or as the proceeds of Member Loans and other funds received from third-party lenders unless the lender of such funds and the Company intend that such funds be distributed to the Members), reduced by the sum of the following: (i) all sums paid to lenders by the Company during such calendar month or other period (other than amounts paid with respect to Member Loans), (ii) all reasonable and necessary cash expenditures and reserves made during such calendar month or other period which are provided for in the Project Business Plan, Company Budget or Project Budget (or any updates thereto), (iii) any expenses or expenditures incurred by Manager, Caliber or any Affiliated Person with respect to Caliber, to the extent reimbursement of such expenses is included in the approved Project Business Plan, Company Budget or Project Budgets, or has been approved by Encore, and (iv) any Emergency Expenditures. There will not be included as reasonable and necessary cash expenditures of the Company or any Subsidiary during any calendar period, or otherwise charged against Net Cash Flow, any amount representing overhead or payroll costs of Caliber, or any Member or of any Affiliated Person with respect to Caliber or any Member (but cash expenditures will include Fees provided for in this Agreement). Net Cash Flow will be determined separately for each calendar month or such other calendar period by Encore and will not be cumulative.

1.76 "Net Proceeds" means the gross proceeds (other than insurance proceeds) from a Disposition less all costs and expenses (including broker fees, closing costs, repayment of indebtedness and related prepayment penalties) incurred in connection therewith, including any portion thereof used to (i) establish such reserves as are required under any financing documents, the approved Company Budget or the applicable Project Budget or otherwise approved by Encore, (ii) repay any debts or other obligations of the Company or any Subsidiary in connection with, or contemplated to be paid from the proceeds of, such Disposition, (iii) restore a Project following a casualty or condemnation if such proceeds result from such event and the Company, pursuant to the provisions of this Agreement, elects to restore, (iv) pay costs reasonably and actually incurred in connection with the Disposition, (v) pay creditors, and (vi) pay the Project Disposition Fee. "Net Proceeds" shall include all principal, interest and other payments as and when received with respect to any note or other obligation received by the Company or any Project in connection with a Disposition.

1.77 "Non-Contributing Member" is defined in Section 3.3(a).

1.78 "Non-Monetary Breach" is defined in Section 8.10(d).

1.79 "Notice" is defined in Section 12.2(a).

1.80 "OFAC" means the United States Treasury's Office of Foreign Assets Control.

1.81 "Partially Adjusted Capital Account" means, with respect to any Member for any taxable period, the Capital Account of such Member at the beginning of such taxable period, adjusted (i) by adding an amount equal to such Member's share of the "minimum gain" and "partner minimum gain" (as such terms are used in Regulation Section 1.704-2) not otherwise required to be taken into account under Section 5.6 during such taxable period, and (ii) as set forth in Section 3.4 for all contributions and distributions during such period, and all special allocations pursuant to Sections 5.2 or 5.6 with respect to such taxable period, but before giving effect to any allocation of Profit or Loss for the period under Section 5.1.

1.82 "Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56 and the regulations issued thereunder, all as amended and in effect.

1.83 "Percentage Interest" means, with respect to Caliber, 50%, and with respect to Encore, 50%, in each case as more particularly specified in Schedule 3.1 and as such percentage may be adjusted from time to time by reason of any transfer of an interest in the Company (including an adjustment pursuant to Section 3.7).

1.84 "Person" means any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns (or permitted assigns, as applicable) of such individual or Entity where the context so admits.

1.85 "Preferred Return" means, an amount calculated monthly with respect to Encore, for purposes of distributions pursuant to Section 6.1 equal to eight percent (8%) Investment IRR.

1.86 "Profit" or "Loss" will be determined for each taxable year or other relevant period by calculating the sum of (i) an amount equal to the Company's income or loss for such year or period for federal income tax purposes, including all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1), plus (ii) any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profit or Loss pursuant to this provision,

and minus (iii) any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulation Section 1.704- 1(b)(2)(iv)(i) and not otherwise taken into account in computing Profit or Loss pursuant to this provision. In the event the Book Value of any Project is adjusted pursuant to the definition of Book Value, the amount of such adjustment will be taken into account as gain or loss from the disposition of such Project and allocated in the same manner as Profit or Loss would be allocated. For purpose of calculating Profit or Loss: (i) gain or loss resulting from any disposition of a Project will be computed by reference to the Book Value of the Asset rather than the adjusted tax basis of such Asset; and (ii) in lieu of depreciation, amortization, and other cost recovery deductions taken into account in computing taxable income or loss, there will be taken into account Depreciation. If the amount calculated in the manner provided above is a positive amount, such amount will be the Company's Profit for such fiscal year or other period; and if negative, such amount will be the Company's Loss for such fiscal year or other period.

1.87 "Prohibited Person" means any Person that is named on the most current list of "Specially Designated Nationals and Blocked Persons" published by the United States Treasury Department, Office of Foreign Asset Control.

1.88 "Project" means, with respect to each Subsidiary, the Targeted Asset and other real and personal property or interest therein owned by that Subsidiary.

1.89 "Project Budget" means the applicable Subsidiary's operating budget for the current fiscal year (including a reasonable provision for contingent or unforeseen expenditures and reasonable reserves to provide for working capital requirements), as approved by Encore.

1.90 "Project Business Plan" means, with respect to each Project, a business plan for the Project that includes with respect to such Project (i) an executive summary of the strategic goals and objectives for the upcoming fiscal year (including financial goals, marketing, leasing, development and redevelopment plans, staffing, operations, expense management and exit plans); (ii) a description of how the proposed Project Business Plan compares with and contrasts to the original plan outlined in the approved Board Book; (iii) a Project Budget for the upcoming fiscal year (including an income statement and a statement of cash flows); (iv) a variance analysis comparing the upcoming fiscal year's income and cash flow to (x) the current fiscal year's budget and (y) the projected income and cash flow budget in the approved Board Book; (v) a summary of material capital expenditures, renovations and development planned for the upcoming fiscal year, along with a variance analysis to the approved Board Book; (vi) a leasing/sales plan for the fiscal year with a proposed guideline of terms for new leasing/sales/business and transactions; (vii) any other marketing/sales plans; (viii) an updated forecast of cash flows based on the proposed Project Business Plan; (ix) a summary of the insurance coverage for the Project and applicable Subsidiary, including a description of any material changes thereto as compared to the previously approved Project Business Plan; (x) current rent roll and stacking plans; and (xi) such other information or reports as may be reasonably requested by a Member to evaluate the status and performance of the Project.

1.91 "Project Fund Management Agreement" means each Fund Management Services Agreement between a Project owning Subsidiary and Manager or its Affiliate, which shall in the form mutually agreed by the Members with respect to the Projects.

1.92 "Purchase Agreement" means each agreement pursuant to which a Subsidiary contracts to purchase a Targeted Asset directly or by assignment of such purchase contract to such Subsidiary.

1.93 "Purchase Price" means any purchase price payable to a Seller pursuant to a Purchase Agreement.

1.94 "Regulation" or "Regulations" means the federal income tax regulations promulgated under the Code, as such Regulations may be amended from time to time.

1.95 "ROFC Opportunity" means Behavioral Health Hospital build-to suits or such other acquisition or development of a business opportunity that is mutually agreeable, which is not an Excluded Project, in which John C. Loeffler II agrees to jointly acquire or develop.

1.96 "Seller" means any seller pursuant to a Purchase Agreement.

1.97 "Subsidiary" means (i) a Delaware limited liability company directly or indirectly owned by Company, which has been established to own a Targeted Asset, and which is organized pursuant to an operating agreement in the form mutually agreed by the Members and which form shall be deemed agreed and approved by the Members with respect to each subsequent Project thereafter with respect to all future Subsidiaries, and (ii) any and all other entities direct or indirectly owned by the Company and any Subsidiary. Unless otherwise agreed in writing by the Members, each Subsidiary will enter into and be governed by a limited liability company agreement substantially the form and substance consistent with Exhibit A.

1.98 "Target Capital Account" means, with respect to any Member for any taxable period, an amount equal to the hypothetical distribution such Member would receive if all the property directly or indirectly held by the Company (including cash) were sold for cash equal to the Book Value of such property (taking into account any depreciation allowable for such period), all liabilities of the Company, including all liabilities encumbering or associated with property directly or indirectly held by the Company, were satisfied in cash according to their terms (limited, with respect to each nonrecourse liability of each entity, to the Asset securing such liability), and the net proceeds of such hypothetical transactions and all cash otherwise available (after satisfaction of such liabilities) were distributed in full pursuant to Section 6.1 hereof.

1.99 "Targeted Asset" means a proposed acquisition and development of Behavioral Health Hospital project(s) for which a Board Book and a Bid Preparation and Closing Expense Budget has been submitted to and approved by Encore in accordance with Sections 8.9 and 12.1 or ROFC Opportunity.

1.100 "Tender Date" is defined in Section 3.2.

1.101 "Ten-Day Period" is defined in Section 8.9(a)(ii).

1.102 "Transfer Notice" is defined in Section 3.7(c).

1.103 "Unpaid Preferred Return" means an amount equal to the excess, if any, of (i) the total cumulative Preferred Return due to Members less (ii) the cumulative sum of the Preferred Returns distributed pursuant to Section 6.1, but not below zero.

1.104 "Unrelated Business Taxable Income" will have the meaning specified in Code Sections 512 and 514 and the Regulations thereunder.

1.105 "Unreturned Capital Contributions" means, for each Member, such Member's Capital Contribution(s) to the Company minus the excess (if any) of the cumulative

distributions made to such Member pursuant to Section 6.1(a)(i) 5.4 over the amount of such Member's cumulative Preferred Return (as applicable).

ARTICLE 2
FORMATION OF LIMITED LIABILITY COMPANY

2.1 Formation. The Company was formed by the filing of the Certificate. The Members, by execution of this Agreement, hereby enter into and join together in the Company as a limited liability company under and pursuant to the Act. The rights and liabilities of the Members will be determined pursuant to the Act and this Agreement. To the extent that the rights or obligations of any Member are different by reason of any provision of this Agreement than they would be in the absence of such provision, this Agreement will, to the extent permitted by the Act, control.

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2 . 2 Company Name. The name of the Company will be *Caliber-Encore Opportunistic Growth Fund*. The business of the Company will be conducted under such name or such other name as the Members will mutually agree in writing. The Certificate, Etc. The Manager filed the Certificate with the Secretary of State of the State of Delaware on April 25, 2022 and the Manager has provided each Member with a copy thereof. The Members hereby agree to execute, and the Manager agrees to file and record, all such other certificates and documents, including amendments to the Certificate, and, subject to the terms of this Agreement, to do such other acts as may be appropriate to comply with all requirements for the formation, continuation and operation of the Company, the ownership of property and the conduct of business under the laws of the State of Delaware and any other jurisdiction in which the Company may own property or conduct business, including qualification of the Company as a foreign limited liability company in any state in which such qualification is required. Principal Business Office, Registered Office and Registered Agent. The principal business of the Company will be located at CaliberCos, Inc., 15150 North Hayden Road, Suite 220, Scottsdale, AZ 85260 or at such other location as may hereafter be determined by Encore. The initial registered office of the Company will be CaliberCos, Inc., 15150 North Hayden Road, Suite 220, Scottsdale, AZ 85260. The initial registered agent for service of process on the Company will be Registered Agent Solutions, Inc., located at 9 E. Loockerman St., S-311, Dover, Delaware, 19901. The registered office and the registered agent of the Company may be changed by Encore from time to time in accordance with the then applicable provisions of the Act and any other applicable laws. The Members will be notified by Encore of any change in such principal business office, registered office or registered agent for service of process within 15 Business Days of the date of such change. Term of Limited Liability Company. The term of the Company commenced on the date of the initial filing of the Certificate with the office of the Secretary of State of the State of Delaware and will continue until dissolved and terminated pursuant to the provisions of Section 10.1. Purposes. The purposes of the Company are to acquire, own, service, maintain, improve, operate and dispose of the Assets, and to engage in all actions necessary, convenient or incidental thereto. Powers. In furtherance of its purposes, but subject to all of the provisions of this Agreement, the Company will have the power and is hereby authorized:to organize one or more Subsidiaries and to acquire any other real or personal property which may be necessary, appropriate, convenient or incidental to the accomplishment of the purposes of the Company, or to cause any Subsidiary to do the same;

(b) to directly or cause any Subsidiary to acquire a Targeted Asset;

(c) to own, hold, operate, maintain, finance, service, improve, lease, sell, convey, mortgage, pledge, or dispose of any real or personal property that may be necessary, convenient or incidental to the accomplishment of the purposes of the Company or to cause any Subsidiary to do the same;

(d) to enter into all such agreements, and to execute, acknowledge and deliver all such documents, certificates and other instruments, as will be necessary, appropriate or convenient in connection with the acquisition of the Targeted Assets or to cause any Subsidiary to do the same;

(e) to take any and all action necessary or appropriate as the holder of the Assets, including, the granting or approval of waivers, consents or amendments of rights or powers relating thereto and the execution of appropriate documents evidencing such waivers, consents or amendments or to cause any Subsidiary to do the same;

(f) to borrow money and issue evidences of indebtedness in furtherance of any or all of the purposes of the Company, and, if necessary, to secure the same by mortgage, pledge or other lien on any Assets of the Company, any Subsidiary and to cause any Subsidiary to do the same;

(g) **i**nvest any funds of the Company pending distribution or payment of the same pursuant to the provisions of this Agreement;

(h) to prepay in whole or in part, refinance, recast, increase, modify or extend any indebtedness of the Company, any Subsidiary, and in connection therewith execute any extensions, renewals or modifications relating thereto and to cause any Subsidiary to do the same;

(i) to enter into partnerships or other ventures with other Persons in furtherance of the purposes of the Company; and,

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(j) to do such other things and engage in such other activities related to the foregoing as may be necessary, convenient or advisable with respect to the conduct of the business of the Company, and have and exercise all of the powers and rights conferred upon limited liability companies formed pursuant to the Act, or to cause any Subsidiary to do the same.

2.8 Beneficial Ownership of Manager. Manager represents and warrants that, as of the date hereof, it has no members other than those set forth on Schedule 2.8 attached hereto, which contains a complete and accurate ownership chart of Manager and its direct and indirect equity holders. Manager represents, warrants and covenants that, as of the date hereof and, throughout the term of this Agreement, (i) John C. Loeffler II serves and will continue to serve as the managing member of Manager; *provided, however*, if John C. Loeffler II no longer serves as the managing member of Manager due to his death, incapacity or disability, Manager may designate a replacement managing member satisfactory to Encore in its sole discretion, within 90 days after any of the foregoing events and (ii) the Key Persons will continue to own 100% of the equity of Manager.

2.9 Representations by Members. Each Member represents, warrants, agrees and acknowledges as to itself only that:

(a) it is a limited liability company, corporation or partnership, as applicable, duly organized or formed and validly existing and in good standing under the laws of the state of its organization or formation; it has all requisite corporate, partnership or limited liability company power and authority to enter into this Agreement, to acquire and hold its Percentage Interest and to perform its obligations hereunder; the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate, partnership or limited liability company action; the Person executing this Agreement on such Member's behalf is duly authorized to do so; and this Agreement is binding upon it and enforceable against it in accordance with the terms hereof;

(b) its execution and delivery of this Agreement and the performance of its obligations hereunder will not conflict with, result in a breach of or constitute a default (or any event which, with notice or lapse of time, or both, would constitute a default) or result in the acceleration of any obligation under any of the terms, conditions or provisions of any other agreement or instrument to which it is a party or by which it is bound or to which any of its property or assets are subject, conflict with or violate any of the provisions of its organizational documents, or violate any statute or any order, rule or regulation of any court or governmental or regulatory agency, body or official, which would materially and adversely affect the performance of its duties hereunder; such Member has obtained any consent, approval, authorization or order of any court or governmental agency or body required for the execution, delivery and performance by such Member of its obligations hereunder;

(c) there is no action, suit or proceeding pending against such Member or, to its knowledge, threatened in any court or by or before any other governmental agency or instrumentality which would prohibit its entering into or performing its obligations under this Agreement;

(d) it and its Affiliates are not Prohibited Persons;

(e) it and its Affiliates are in compliance with the Patriot Act; and

(f) it and its Affiliates are not in violation of any legal requirement related to money laundering or anti-terrorism and none of such Persons are located in or transacting business in any countries listed as embargoed countries under OFAC regulations.

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2.10 Data Security and Confidential Information.

(a) The Manager may engage a third party vendor to provide (i) access, storage, transmission, receipt and maintenance of Confidential Information and (ii) application servers, database servers and related systems and equipment upon which the Confidential Information resides or which may connect or have access to the internal network of any Member or any Affiliate of such Member (collectively the "Data Environment"), which vendor shall represent such vendor is ISO 9000 certified or subject to approval by Encore (an "Approved Data Vendor").

(b) In the event the Manager engages any vendor other than an Approved Data Vendor to host and maintain the Data Environment, the Manager represents and warrants that it shall adopt procedures and electronic safeguards recommended by an Approved Data Vendor designed to protect Confidential Information against access by non-authorized representatives and third parties and that such safeguards shall be maintained until the Company is dissolved at no less than the same level of effectiveness as they are maintained at present, and, in any event, at no less than commercially reasonable levels.

(c) In the event the Manager engages any vendor other than an Approved Data Vendor to host and maintain Confidential Information and all Company, the Manager shall maintain and enforce security procedures with respect to the (i) access, storage, transmission, receipt and maintenance of Confidential Information and (ii) the Data Environment, in each case that (A) are at least equal to information security industry best practices and (B) provide appropriate technical and organizational safeguards against accidental or unauthorized destruction, loss, alteration or disclosure of Confidential Information or access to the Data Environment. Following industry best practices, such safeguards shall include: (y) maintaining and complying with a written information security program and (z) maintaining proper access controls to ensure that only authorized personnel on a need-to-know basis can access Confidential Information. If the Company ceases to engage an Approved Data Vendor, the Manager shall take such other actions as are necessary to maintain conformance with industry standard best practices to ensure the security, confidentiality, integrity and availability of Confidential Information and shall comply with any reasonable security requirements provided in writing by Encore to the Manager.

(d) The Manager shall promptly deliver to the Members a copy of any notice received from the vendor that maintains the Data Environment of any threat to, or breach of, the Data Environment that does or may compromise the security, confidentiality or integrity thereof.

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ARTICLE 3
CAPITALIZATION

3.1 Initial Capital Contributions. Each Member's Initial Capital Contribution is listed on Schedule 3.1. The values of the Initial Capital Contributions of the Members are set forth in Schedule 3.1 hereto. Each Member's obligation to fund the Initial Capital Contributions shall be subject to mutual agreement and execution and delivery of all other Joint Venture Agreements applicable to the Projects. Additional Capital Contributions. In addition to the Initial Capital Contributions, each Member agrees to make additional Capital Contributions to the Company from time to time in accordance with its Percentage Interest ("Additional Capital Contributions") to fund as determined by Encore, from time to time, in its sole discretion: (i) the Company Required Equity Investment of a Project as set forth in the respective Project Budget, (ii) Emergency Expenditures, (iii) costs and expenses specifically designated as requiring Company equity contributions as set forth in the approved Company Budget, provided that with respect to the Project for which such Additional Capital Contribution is requested there is no material deviation from project schedule as set forth in the approved Project Budget and Project Business Plan, subject to Force Majeure, (iv) costs and expenses specifically requiring Company equity funding as set forth in an approved Project Budget, provided that with respect to the Project for which such Additional Capital Contribution is requested there is no material deviations from the project schedule as set forth in the approved Project Budget and Project Business Plan, subject to Force Majeure, and (v) other costs and expenses approved by Encore; *provided, however*, that if such Additional Capital Contributions are insufficient Manager shall not be deemed to have breached its obligations hereunder. The Manager will give Notice to the Members of a proposed Additional Capital Contribution to be made by each Member, (x) stating the aggregate amount of such Additional Capital Contribution, (y) stating in reasonable detail the reasons such Additional Capital Contributions are required, the intended use thereof and such other information as any Member may reasonably request and the date on which the Members will be obligated to contribute to the Company the amount of such Additional Capital Contribution (which date, the "Tender Date", will not be less than 15 Business Days after the date on which such Notice is given, except with respect to Emergency Expenditures which Tender Date shall be as far in advance as reasonably practicable, which may be less than 15 Business Days). Manager will (not less than 5 Business Days prior to the Tender Date) provide a Notice so stating to each Member will be obligated to contribute to the Company on the Tender Date, in cash, the aggregate amount of Additional Capital Contributions to be made on the Tender Date, in proportion to their respective Percentage Interests. If any Member fails to pay to the Company by 5:00 p.m. Eastern Time on the Tender Date its entire share of any Additional Capital Contribution required pursuant to this Section 3.2 (such Member, the "Non-Contributing Member"), then the portion thereof not contributed by such Non-Contributing Member shall be hereinafter referred to as the "Deficiency". Any other Member who wishes to make payment to the Company all or any portion of such Deficiency shall be deemed a "Contributing Member." The Contributing Member may, in its sole and absolute discretion, elect by notice to the Non-Contributing Member to make a Member Loan to the Non-Contributing Member. No Member will be entitled or required to make any Capital Contributions to the Company other than under Section 3.1 or as required by this Section 3.2. A Contributing Member may, in its sole discretion, elect to advance any Deficiency in the form of a Member Loan pursuant to Section 3.2 or deem such amounts an additional Capital Contribution by Contributing Members for which it is entitled to Additional LP Return in accordance with Section 3.7(a) which Additional LP Returns would in each case be paid to Encore out of future distributions or fees otherwise payable to Non-Contributing Members. Failure to Make Additional Capital Contributions.

(a) Member Loan.

(i) In the event of any Deficiency described in Section 3.2, the Contributing Member may deliver a notice (a "Member Loan Notice") to the Non-Contributing Member of its intention to make a Member Loan pursuant to this Section 3.3 or to make Additional Capital Contributions which entitle the Contributing Member to an Additional LP Return pursuant to Section 3.7. The Contributing Member shall have the right, but not the obligation, to make a loan (a "Member Loan") to the Non-Contributing Member in an amount equal to the Deficiency at any time after the tenth (10th) day following the delivery of a Member Loan Notice provided that such Non-Contributing Member has not funded such Deficiency prior to the making of such Member Loan. If a Member Loan shall be made in accordance with this subsection 3.3(a), the Contributing Member shall notify the Non- Contributing Member of the amount and date of the Member Loan, and the Capital Account of the Non-Contributing Member shall be credited to reflect the payment of the proceeds of the Member Loan to the Company on behalf of the Non-Contributing Member (each such contribution being hereinafter referred to as a "Member Loan Contribution"). Each Member Loan shall be deemed to be made to the Non-Contributing Member, with the proceeds of each Member Loan being delivered to the Company by the Contributing Member making same in immediately available funds on such Non-Contributing Member's behalf. A Member Loan shall be deemed to have been advanced on the date actually advanced. Each Member Loan will, to the fullest extent permitted by law, bear interest at an annual rate, determined daily and compounded monthly, equal to the lesser of 15% or the highest rate permitted by law if such rate is not 15% and will be due not later than six (6) months from the date such Member Loan is made ("Member Loan Maturity Date"). A Contributing Member making a Member Loan ("Lending Member") may extend the Member Loan Maturity Date in its sole discretion.

(ii) If a Member Loan has been made, the Non-Contributing Member shall not receive any distributions of Net Cash Flow or Net Proceeds or any proceeds from the transfer of all or any part of its Membership Interest while the Member Loan, including all interest thereon remains unpaid. Instead, the Non-Contributing Member's share of Net Cash Flow and Net Proceeds or such other proceeds shall first be paid to the Lending Member until all Member Loans to such Non-Contributing Member, including all accrued and unpaid interest thereon shall have been repaid in full. Such payments shall be applied first to the payment of interest accrued and unpaid, and then to outstanding principal, but shall be considered, for all other purposes of this Agreement, to have been distributed to the Non-Contributing Member. Distributions of Net Cash Flow and Net Proceeds to such Non-Contributing Member shall be immediately reinstated prospectively upon the full repayment of a Member Loan (including all accrued and unpaid interest thereon), to the Lending Member. The Non-Contributing Member shall be liable for the reasonable fees and expenses incurred by the Lending Member (including reasonable attorneys' fees and disbursements) in connection with any enforcement or foreclosure upon any Member Loan and such costs shall, to the extent enforceable under applicable law, be added to the principal amount of the applicable Member Loan. In addition, at any time during the term of such Member Loan, the Non-Contributing Member shall have the right to repay, in full or in part, the Member Loan (including interest, any other charges).

(b) Failure to Repay Member Loan. If at any time there are outstanding Member Loans owed to a Contributing Member, upon notice to the Non-Contributing Member, such Member Loans, may be converted into Additional Capital Contributions entitling the Contributing Member to Additional LP Returns in accordance with Section 3.7 below.

3 . 4 Capital Accounts. A separate capital account (a "Capital Account") will be established and maintained for each Member, including any substituted Member who will hereafter acquire an interest in the Company, in accordance with the following provisions:To each Member's Capital Account there will be credited the amount of cash and the fair market value of any other property actually contributed to the Company by such Member in accordance with Section 3.1 or 3.2, such Member's allocable share of Profit, the amount of any Company liabilities that are assumed by such Member or that are secured by any Company property distributed to such Member, and any items in the nature of income or gain which are specially allocated to such Member pursuant to Sections 5.2 or 5.6 to the extent that Sections 5.2, 5.6 and applicable Regulations provide for such a Capital Account adjustment.

(b) From each Member's Capital Account there will be debited the amount of cash and the fair market value of any Company property distributed to such Member in its capacity as a Member pursuant to any provision of this Agreement, such Member's allocable share of Loss, the amount of any liabilities of such Member that are assumed by the Company or that are secured by any property contributed by such Member to the Company, and any items in the nature of expenses or losses which are specially allocated to such Member pursuant to Sections 5.2 or 5.6 to the extent that Sections 5.2, 5.6 and applicable Regulations provide for such a Capital Account adjustment.

(c) The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with the Regulations under Section 704(b) of the Code, and will be interpreted and applied in a manner consistent with such Regulations.

(d) A Member will not be entitled to withdraw any part of the Capital Account of such Member or to receive any distributions from the Company except as provided in Article 6; nor will a Member be entitled to make any loan or Capital Contribution to the Company other than as expressly provided herein. No loan made to the Company by any Member will constitute a Capital Contribution to the Company for any purpose.

(e) Except as expressly required by this Agreement or the Act, no Member will have any liability for the return of the Capital Contribution of any other Member. A Member who has more than one interest in the Company will have a single Capital Account that reflects all such interests, regardless of the class of interest owned and regardless of the time or manner in which the interests were acquired.

3.5 Transfer of Capital Accounts. In the event all or any portion of an interest in the Company is transferred in accordance with the terms of this Agreement, the transferee will succeed to the Capital Account of the transferor to the extent it relates to the transferred interest in the Company, and reference in this Agreement to a Capital Contribution of or an allocation or distribution to a Member who is a transferee will include a Capital Contribution of or allocation or distribution previously made to its transferor Member on account of the transferred interest in the Company. Deficit Capital Accounts. Except as otherwise provided in Section 6.2(b), no Member with a deficit in its Capital Account will be obligated to restore such deficit balance or make a Capital Contribution to the Company solely by reason of such deficit. Adjustments to Member Interests.

(a) Reduction of Non-Contributing Members' Interests. If a Non-Contributing Member fails to make an entire Additional Capital Contribution required of such Member pursuant to Section 3.2, upon election of the Contributing Member, the Deficiency or any outstanding Member Loan balance, including accrued and unpaid interest thereon (for this purpose, the "Defaulted Amount") may be cancelled and converted into a Capital Contribution to the Company or an applicable Subsidiary to which the Deficiency proceeds are directed, which would entitle the Contributing Member to a Preferred Return on such amounts contributed plus an additional amount equal to all distributions payable to limited partners or investor members of a Subsidiary (as elected by Contributing Member), as if the Contributing Member had directly invested

such Additional Capital Contribution as an investor in the Subsidiary having the highest Investment IRR on and through the liquidation of the applicable Subsidiary (such aggregate amounts payable to Contributing Member pursuant to this paragraph, the "Additional LP Return"). All Additional LP Returns would be paid to the Contributing Member out of the distributions otherwise payable to the Non-Contributing Member. Appropriate adjustments will be made to the allocation, distribution, Capital Account, and other provisions of this Agreement to give effect to such Capital Contribution Notwithstanding the foregoing, the Non-Contributing Member shall within 10 business days following the request of the Contributing Member, execute such documents and take such additional actions as may be necessary to effectuate or evidence such adjustments. If the Non-Contributing Member shall fail to execute any such documents or take any such actions within such 10 business day period, such Non-Contributing Member hereby constitutes and appoints each of the Manager and the Contributing Member, including, if applicable, the officers and directors of the Manager and the Contributing Member or their respective general partner or member (and its officers and directors), to act alone as the attorney-in-fact of such Non-Contributing Member with full power of substitution in the names and stead of each such Member to execute, acknowledge, swear to and deliver such instruments as may be necessary or appropriate to carry out the foregoing provisions of this Section 3.7. The grant of power of attorney by each of the Members under this Section 3.7 is coupled with an interest and is and will be irrevocable, whether by reason of such Member's dissolution or for any reason whatsoever.

(b) No Prior Agreement to Transfer. The parties to this Agreement acknowledge and agree that there is no prior agreement, understanding or plan to change Members' Percentage Interests, and that such a change is not expected given the structure of the transactions contemplated by this Agreement.

3.8 Prohibition on Loans by Company. Without the prior written consent of the Members, the Company will not, directly or indirectly, make any form of loan or advance to or directly or indirectly guaranty or secure the obligations of any Member or to any Affiliated Person of any Member.

ARTICLE 4
BOOKS; REPORTS; TAX ELECTIONS; ACCOUNTS

4.1 Books and Records. The Manager will keep, or cause to be kept, complete, up-to-date and accurate books of account and records of the Company and each Subsidiary. The books of the Company will be kept in accordance with GAAP and IFRS, and all such books and records will at all times be maintained or made available at the principal business office of the Company. Each of (a) a current list of the full name and last known business address of each Member, set forth in alphabetical order, (b) a copy of the Certificate, including all certificates of amendment thereto, (c) copies of the federal, state and local income tax and information returns and reports of the Company, if any, for the 6 most recent years and (d) copies of this Agreement and of any financial statements of the Company for the 6 most recent years, will be maintained at the principal business office of the Company. All books and records will be maintained by the Manager (and will be available to the Members upon request) for a period of not less than 5 years after the dissolution of the Company. Required Reports. The Manager will deliver the following information unless a different schedule is approved by Encore:Annual Reports. The Manager will prepare, or cause to be prepared, and furnish to each Member:

(i) within 30 days after the end of each fiscal year of the Company, the unaudited financial statements of the Company for such fiscal year accurately reflecting the financial condition and results of operations of the Company, including a balance sheet, a statement of changes in Members' capital and a profit and loss statement, cash flow statement, all prepared by the Accountants;

(ii) within 30 days after the end of each fiscal year of the Company, the Manager's certification regarding no knowing non-compliance with the anti-corruption and anti-bribery covenants set forth in Section 8.1(b), including such backup information as any Member may reasonably request with respect to such certification;

(iii) within 30 days after the end of each fiscal year of the Company, a written certification by the Manager that the Company and each Subsidiary has obtained and maintained all applicable insurance required under (A) this Agreement, (B) any loan agreement or other document or instrument governing any loan to which the Company or any Subsidiary is a party and (C) any management agreement, leasing services agreement, construction agreement, development agreement or similar agreement to which the Company or any Subsidiary is a party, and any and all amendments thereto, which certification will set forth the period of time covered by the applicable insurance policies; and

(iv) at least 60 days prior to the start of each fiscal year of the Company, a Company Budget and a Project Business Plan for each Project.

(b) Quarterly Reports. Commencing after the end first full fiscal quarter following the Effective Date, the Manager will prepare, or cause to be prepared, and furnish to each Member within 15-days before the end of each fiscal quarter of the Company (e.g., for a fiscal year that is a calendar year, the following reports would be due not later than March 16, June 15, September 15 and December 16 of that year):

(i) an updated aggregate cash flow projection to the terminal values for each Project and consolidated for the Company;

(ii) if requested by a Member, an updated Company Budget and Project Business Plan for each Project;

(iii) updated investment model for each Project compared to projects provided in Board Book;

(iv) such other information or reports requested by the Members as may be useful to the Members in evaluating the status and performance of the Projects; and

(v) a statement of changes in Members' capital and a statement of cash flows.

(c) Monthly Reports. The Manager will prepare, or cause to be prepared, and furnish to each Member within 15 days after the end of each calendar month:

(i) an executive summary of the status and performance of the Projects, noting any material deviations from the Project Business Plan, and any material developments;

(ii) a copy of the unaudited monthly financial statements of each Project and consolidated unaudited monthly financial statements for the Company for such month reflecting the financial condition and results of operations of each Project and of the Company including a balance sheet and an income statement all certified by the Manager, to Manager's best knowledge and belief, to be complete and accurate in all material respects;

(iii) for each Project, a separate variance analysis comparing performance to the applicable Project Budget and Board Book;

(iv) for each Project, an updated statement of capital expenditures, including the amount spent to-date as compared to the applicable Project Budget and Board Book;

(v) for each Project, current rent roll and stacking plans/revenue and expense reports and status updates

(vi) for each Project, leasing and sales schedules and status updates;

(vii) for each Project, a monthly general ledger report;

(viii) for each Project, a statement of Member's Capital Contributions to such Project and distributions during such month from such Project; and

(ix) such other information or reports requested by Members as may be useful to the Members in evaluating the status and performance of the Projects.

(c) Tax Reports. The Manager will prepare, or cause to be prepared, and furnish to each Member (i) an estimate of taxable income for each fiscal year not later than January 31 of such fiscal year, reporting ordinary income items separate from items of capital gain, (ii) an estimate of taxable income using the best available information to be reported in the Schedule K-1's not later than February 28 following such fiscal year, (iii) final Schedule K-1's not later than March 15 following such fiscal year and (iv) detailed supporting schedules of Schedule K-1 to report (A) any Unrelated Business Taxable Income, if applicable, (B) any "unrecaptured section 1250 gain" within the meaning of the Code and the Regulations, recognized on the date of the sale of Targeted Assets, if applicable, and (C) the state sources of each item of income, gain, loss and deduction, as applicable. All financial statements and reports furnished pursuant to Section 4.2 will be in a form approved by Encore in writing.

(d) Other Reports. Promptly upon the request of any Member from time to time, Manager will prepare, or cause to be prepared, and furnish to each Member any additional information such Manager or Member may reasonably request to assist such Member or a third party engaged by such Member in appraising or assessing the value of the Assets. Each Member may require periodic appraisals of the Assets of the Company from time to time, which shall be at such Member's expense, and the Manager and Manager shall cooperate with the appraiser as reasonably requested. The Manager and tech Member will notify the other Members promptly (and in any event not later than 2 business days) after such Member becomes aware of (i) any Material Liability to the Company not contemplated by Company Budget, a Project Business Plan or a Project Budget, the Manager, the Members or any of their respective Affiliates or (ii) any pending or threatened in writing criminal complaint against any of the foregoing parties.

(e) Member Access to Books and Records. Each Member will have the right at all reasonable times during usual business hours to audit, examine and make copies of or extracts from the books and records of the Company. Such right may be exercised through any agent or employee of such Member designated by it or by a certified public accountant designated by such Member. A Member will bear all expenses incurred in any examination made for such Member's account. Promptly upon request, the Manager will also furnish to the Members such other information bearing on the financial condition and operations of the Company as any Member may from time to time reasonably propose.

(f) Costs. Except as otherwise specifically noted, all third party and out-of-pocket costs and expenses of compliance with the foregoing provisions of this Section 4.2 will be borne by the Company.

(g) Confidentiality. The Members hereby agree to consider as proprietary, keep confidential, and not disclose to any third party, any Asset-specific or other information relating to the operations of the Company which could, if so disclosed, have an adverse impact on the business of the Company; *provided, however*, that any Member may disclose such information to any Person if such Person is party to a confidentiality agreement which adequately protects the Company against disclosures which could adversely affect its business; and provided, further, that any Member may disclose such information, on an "as needed" basis (i) to such Member's lawyers, accountants, agents, lenders and investors in connection with the ordinary conduct of such Member's business affairs or (ii) as required by law or pursuant to regulatory requests; *provided, however*, to the extent permitted by law, prior to complying with any such request the Member will request that the Person or regulatory authority requiring disclosure become party to a confidentiality agreement acceptable in form and substance to Encore. Nothing in this Section 4.2(g) will be construed as prohibiting any Member from communicating general financial information concerning the operating results of the Company to the direct or indirect beneficial owners of interests in such Member. Notwithstanding anything herein to the contrary, any party to this Agreement (and each employee, representative, or other agent of such party) may disclose to any and all persons, without limitation of any kind, the tax treatment, tax structure or tax strategies of, and the tax strategies relating to the Company and any transactions entered into by the Company and the Subsidiaries and all materials of any kind (including opinions and other tax analyses) that are provided to the party relating to such tax treatment, tax strategies and tax structure. Except as otherwise required by law, the Manager agrees that, without the consent of Encore, it shall not, and shall cause its Affiliates to not, make reference to, or use, the name of Encore Properties, Ltd. or its Affiliates (other than the Company and its respective Subsidiaries) in connection with the interest of such Person in the Company.

4.3 Filing of Returns and Other Writings; Partnership Representative.

(a) Legal Uncertainties. The Manager will, and any Member may, inform the Members of any legal issues or uncertainties relating to the preparation of the Company's federal, state and local income tax returns brought to Manager's attention by the Accountants. If the Members do not agree on the proper tax treatment of any such item, the Manager will submit the relevant alternatives to the Members and will prepare the Company's returns in accordance with the treatment approved by Encore. Notwithstanding anything else in this Agreement to the contrary, Encore shall be entitled to make all decisions and determinations (including for tax return reporting purposes and for purposes of positions taken in tax audits and other tax proceedings) relating to any allocations, capital shifts, guaranteed payments, and other items that result in taxable income to any Member, including as to the timing and manner of reporting thereof, and all decisions and determinations relating to the reporting, treatment and tax consequences of the Initial Capital Contributions; *provided, however*, that if such determinations are inconsistent with the Company's Accountants evaluation, it shall not be

deemed to be a breach of any of Manager's duties hereunder. All rights and obligations of the Manager and the Partnership Representative pursuant to this Agreement shall be subject to the preceding sentence.

(b) Member Returns. Each Member and, if applicable, former Member will file tax returns consistent with the tax treatment of the Company's tax returns and with the treatment of items on any statement of such Member's share of any adjustment to income, gain, loss, deduction or credit furnished to such Member by the Company in accordance with Section 6226 of the Code, in each case, which tax treatment will be established by Encore prior to the filing of each relevant Company tax return or statement of adjustment. Each Member's obligations under the previous sentence shall survive the dissolution, winding up and termination of the Company, any transfer of a Member's interest in the Company, and any Member's termination of status as a Member for any reason. For U.S. federal income tax purposes, this Agreement will be treated as creating a single partnership and the Assets and liabilities of each Subsidiary will be treated as the Assets and liabilities of the partnership.

(c) Appointment of Partnership Representative.

(i) Encore shall designate a partnership representative (in such capacity, the "Partnership Representative") to act under Section 6223 of the Code as amended by the Bipartisan Budget Act of 2015 (or any successor thereto) (the "2015 Act") and in any similar capacity under state, local or non-U.S. law, as applicable. The Partnership Representative may be removed and replaced by Encore at any time in its sole discretion. Notwithstanding anything else to the contrary in this Agreement, the Partnership Representative shall apply the provisions of subchapter C of Chapter 63 of the Code, as amended by the 2015 Act (or any successor rules thereto), or similar provisions of state, local or non-U.S. tax law, with respect to any audit, imputed underpayment, other adjustment, or any such decision or action by the Internal Revenue Service (or other tax authority) with respect to the Company or the Members for such taxable years, in the manner determined by the Partnership Representative with the approval of Encore.

(ii) The Members shall have no claim against the Company or Partnership Representative for any form of damages or liability as a result of actions taken or remedies pursued by or on behalf of the Company in order to comply with the rules under subchapter C of Chapter 63 of the Code, as amended by the 2015 Act (or any successor rules thereto) or similar provisions of state, local or non-U.S. law.

(iii) The Partnership Representative shall keep the Members informed of any inquiries, audits, other proceedings or tax deficiencies assessed or proposed to be assessed (of which the Partnership Representative is actually aware) by any taxing authority against the Company or the Members.

(d) Election Out of Partnership Audit Procedures**.** So long as the Company satisfies the provisions of Sections 6221(b)(1)(B) through (D), the Partnership Representative, with the approval of Encore, may cause the Company to make the election set forth in Section 6221(b)(1) of the Code so that the provisions of Subchapter C of Chapter 63 of the Code shall not apply to the Company. If such election is made the Partnership Representative shall provide the proper notice to each Member in accordance with Section 6221(b)(1)(E).

(e) Partnership Level Assessments. Provided the election described in Section 8.2(e) above is not in effect, in the case of any adjustment by the IRS in the amount of any item of income, gain, loss, deduction, or credit of the Company or any Member's distributive share thereof ("IRS Adjustment"), the Partnership Representative shall respond to such IRS Adjustment in accordance with either (d)(i) or (d)(ii).

(i) In accordance with Section 6225 of the Code as enacted under the 2015 Act, the Partnership Representative may cause the Company to pay an imputed underpayment as calculated under Section 6225(b) of the Code with respect to the IRS Adjustment, including interest and penalties ("Imputed Tax Underpayment") in the Adjustment Year. The Partnership Representative shall use commercially reasonable efforts to pursue available procedures to reduce any Imputed Tax Underpayment on account of any Member's tax status. Each Member agrees to amend its U.S. federal income tax return(s) to include (or reduce) its allocable share of the Company's income (or losses) resulting from an IRS Adjustment and pay any tax due with such return as required under Section 6225(c)(2) of the Code, even if an Imputed Tax Underpayment liability of the Company or IRS Adjustment occurs after the Member's withdrawal from the Company.

(ii) Alternatively, the Partnership Representative may elect under Section 6226 of the Code as implemented under the 2015 Act to cause the Company to issue adjusted Internal Revenue Service Schedules "K-1" (or such other form as applicable) reflecting a Member's shares of any IRS Adjustment for the Adjustment Year.

(iii) Each Member agrees that such Member shall not treat any Company item inconsistently on such Member's federal, state, foreign or other income tax return with the treatment of the item on the Company's return. Any deficiency for taxes imposed on any Member (including penalties, additions to tax or interest imposed with respect to such taxes and any taxes imposed pursuant to Code Section 6226) will be paid by such Member and if required to be paid (and actually paid) by the Company, will be recoverable from such Member as provided herein.

(f) Indemnification for Partnership Adjustments. Each Member does hereby agree to indemnify and hold harmless the Company, Managers, and Partnership Representative from and against any liability with respect to the Member's proportionate share of any Imputed Tax Underpayment or other IRS Adjustment resulting in liability of the Company, regardless of whether such Member is a Member in the Company in an Adjustment Year, with such proportionate share as reasonably determined by the Managers, including the Manager's reasonable discretion to consider each Member's interest in the Company in the year to which the adjustment relates ("Reviewed Year") and a Member's timely provision of information necessary to reduce the amount of Imputed Tax Underpayment set forth in section 6225(c) of the Code. This obligation shall survive a Member's ceasing to be a Member of the Company and/or the termination, dissolution, liquidation and winding up of the Company.

(g) Indemnification for Lower-Tier IRS Adjustments. Each Member does hereby agree to indemnify and hold harmless the Company, Managers and Partnership Representative from and against any liability with respect to the Member's proportionate share of any item of income, gain, loss, deduction, or credit of the Company or any Member's distributive share thereof reported on an adjusted Internal Revenue Service Schedule K-1 received by the Company with respect to any entity in which the Company holds an ownership interest and which results in liability of the Company, regardless of whether such Member is a Member in the Company in an Adjustment Year, with such proportionate share as reasonably determined by Encore, including Encore's reasonable discretion to consider each Member's interest in the Company in the Reviewed Year and a Member's timely provision of information necessary to reduce the amount of Imputed Tax Underpayment set forth in Section 6225(c) of the Code. This obligation shall survive a Member's ceasing to be a Member of the Company and/or the termination, dissolution, liquidation and winding up of the Company.

4.4 Fiscal Year. The fiscal year of the Company shall end on December 31 of each year,*provided, however*, that, in all events, the fiscal year for purposes of

tax reporting requirements, including those set forth in Section 4.2(d), will be the taxable year required by the Code unless otherwise approved by Encore in writing and permitted by law. Reserves. The Manager will establish in the Company Budget and applicable Project Budget and Business Plan such reasonable cash reserves, to provide for expenses contained in the Company Budget and applicable Project Budget and Business Plan approved by Encore, as Manager reasonably determines, subject to the final approval of Encore, to be necessary to permit timely payment of such expenses. In addition, each Project Budget shall contain the reserves required with respect to any Financing for such Project. Bank Accounts; Investments.

(a) Bank Accounts. The bank accounts of the Company and its Subsidiaries will be maintained in such commercial banks or trust companies organized and existing under the laws of the United States of America or of any state and meeting the requirements referred to in clause (iii) of Section 4.6(b) as the Manager will from time to time determine, and withdrawals will be made only in the regular course of Company business on such signature or signatures as the Manager may from time to time determine. Representatives of Encore will be designated as a co- signatory on all bank accounts of the Company, and, except as expressly required herein, any withdrawal will only require the signature of one authorized signatory. The Manager will notify the Members of the location of each bank account. Each of Manager and Encore shall take actions with respect to any Company or Subsidiary bank account solely in accordance with the terms of this Agreement.

(b) Security of Bank Accounts. The Manager shall maintain and enforce customary security procedures and safeguards to protect the bank accounts of the Company and its Subsidiaries (maintained in accordance with Section 4.6(a)) from and against access by non- authorized representatives and third parties. The Manager shall take such other actions as are necessary to maintain conformance with industry standard practices to ensure the security, confidentiality and integrity of the bank accounts of the Company and its Subsidiaries. The Manager shall promptly notify the Members of any breach of the procedures and safeguards set forth in this Section 4.6(c), of which the Manager is aware, that does compromise the security, confidentiality or integrity thereof.

ARTICLE 5
ALLOCATIONS

The income, gains, losses, deductions and credits of the Company will be allocated for Capital Account purposes and for federal, state and local income tax purposes among the Members in accordance with this Article 5. The Manager will have the power and authority to make all accounting, tax and financial determinations and decisions with respect to the Company, subject to Section 7.2, *provided, however*, that a decision of Encore overriding any such determination or decision will be dispositive.

5.1 Allocations of Profit and Loss.

(a) General Allocation Rule. Subject to Sections 5.1(b), 5.1(c), 5.2, 5.3, 5.6 and 6.2, Profit or Loss for a relevant period will be allocated among the Capital Accounts of the Members (including the Manager) so as to reduce proportionately the differences between their respective Partially Adjusted Capital Accounts and their Target Capital Accounts.

(b) Acknowledgment of Allocation Rules. The Members are aware of the income tax consequences of the allocations made by this Article 5 and hereby agree to be bound by the provisions of Article 5 in reporting their shares of Company income.

5.2 Section 754 Election. Upon the request of any Member, the Company will elect, pursuant to Section 754 of the Code, to adjust the basis of Company property as permitted and provided in Sections 734 and 743 of the Code. Except to the limited extent otherwise provided in the Regulations promulgated under Section 704(b) of the Code, in the event that the Company makes an election under Section 754 of the Code, the amounts of any adjustments to the basis of the Assets of the Company made pursuant to Section 743 of the Code (relating to transfers of Company interests) will not be reflected in the Capital Accounts of the Members, but the amounts of any adjustments to the basis of the Assets of the Company made pursuant to Section 734 (relating to distributions) of the Code as a result of the distribution of property by the Company to a Member will be reflected in the Capital Accounts of the Members in the manner provided by the Regulations under Section 704(b) of the Code. Tax Allocations: Code Section 704(c). Allocations of items of taxable income, gain, loss and deduction will be made for tax purposes in accordance with allocations to Capital Accounts set forth above, except as otherwise provided herein. In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Company will, solely for income tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market value at the time of contribution. In the event that the Book Value of any Asset is subsequently adjusted in accordance with the third sentence of the definition of Book Value, any allocation of income, gain, loss and deduction with respect to such Asset will thereafter take account of any variation between the adjusted tax basis of the asset to the Company and its Book Value in the same manner as under Section 704(c) of the Code and any Regulations promulgated thereunder. Any elections or other decisions relating to such allocations will be made by Manager with the consent of Encore in a manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 5.3 are solely for purposes of federal, state and local taxes. Allocations for Tax and Book Purposes. Except as otherwise provided herein or required by law, any allocation to a Member for a fiscal year or other period of a portion of the Profit or Loss of the Company will be determined to be an allocation to that Member of the same proportionate part of each item of income, gain, loss, deduction or credit, as the case may be, as is earned, realized or available by or to the Company. Certain Accounting Matters. For purposes of determining the Profit, Loss or any other items allocable to any period, Profit, Loss and any such other items will be determined on a daily, monthly or other basis, as determined by Manager using any permissible method under Code Section 706 and the Regulations thereunder.

5.6 Special Allocations.

(a) Qualified Income Offset, Etc. To the extent the allocation provisions of Section 5.1 would not comply with the Regulations promulgated under Section 704(b) of the Code, there is hereby included in this Agreement such special allocation provisions governing the allocation of Profit and Loss and items thereof as may be necessary to provide herein a so-called "qualified income offset," limit the allocation of losses that would cause a capital account to become negative to an impermissible extent, and ensure that this Agreement complies with all other provisions, including "minimum gain" provisions, relating to the allocation of so-called "nonrecourse deductions" and "Member nonrecourse deductions" and the charge back thereof as are required to comply with the Regulations under Section 704 of the Code. A Member's "interest in partnership profits" for purposes of determining its share of the nonrecourse liabilities of the Company within the meaning of Regulation Section 1.752-3(a)(3) will be its Percentage Interest in the Company.

(b) Interpretation. In furtherance of the foregoing, the Manager is hereby directed to interpret this Agreement and to resolve any ambiguity in the provisions of this Agreement in a manner that will preserve, protect and further the intention of the Members to cause this Agreement to comply with the aforesaid provisions for federal income tax purposes and, subject to the last sentence hereof, to adjust the Capital Account and allocation provisions and adopt such curative provisions to this Agreement as Encore may deem necessary. In the event of any dispute, the decision of the independent tax counsel employed by the Company and reasonably acceptable to

Encore, as indicated by Encore to the Manager orally or in writing, will be final.

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ARTICLE 6
DISTRIBUTIONS

6.1 Distributions Other Than in Liquidation.

(a) Distributions of Net Cash Flow. Subject to Section 3.3(b) (regarding payment of Member Loans) and Section 6.2 (regarding distributions in liquidation), distributions of Net Cash Flow, will be calculated and distributed by the Company in the order of priority set forth in clauses (i) – (iv) below, at such times and in such amounts as determined by Encore in its sole discretion.[1]

(i) first, 100% to the Contributing Members, if any, in an amount equal to any Additional LP Return owed in accordance with this Agreement (which Additional LP Returns would in each case be paid to Contributing Members out of and reduce distributions and fees otherwise payable to Non-Contributing Members as provided in Section 3.7);

(ii) second, 100% to the Members pro-rata and in proportion to its respective Unpaid Preferred Return until all Unpaid Preferred Return then owed to the Members equals zero;

(iii) third, 100% to all Members pro-rata in proportion to its respective Unreturned Capital Contributions until such time all Unreturned Capital Contributions of the Members equals zero;

(iv) fourth, 100% to the Members pro-rata in proportion to their respective Percentage Interests until each Member has received its pro-rata share of all Net Cash Flow derived from Carried Interest Proceeds during such period, if any; and

(vi) thereafter, 100% to the Members in proportion to their respective Percentage Interests.

See Schedule 6.1 for an example of the distributions herein.

[1] Note that Project level waterfall will be included in Subsidiary LLC Agreement and provide net available cash flow from Projects would be paid as follows:

(A) Net available cash flow from operations of the Projects would be paid as follows: (1) first, 100% to all Partners, pro-rata in proportion to their respective contributed capital, (including any Additional Capital as defined below), until all accrued and outstanding Preferred Yield of the Partners have been paid (2) second, JV GP would be paid a catch-up payment in an amount equal to 20% of distributions of Preferred Yield paid to all Partners through such date; (3) third, 80% to all Partners (pro-rata in proportion to contributed capital) and 20% to JV GP up to IRR of 18% to Limited Partners; and (4) fourth, 60% to all Partners (pro-rata in proportion to contributed capital) and 40% to JV GP for IRR above 18%.

(B) Net available cash flow from capital transactions of the Projects would be paid as follows: (1) first, 100% to all Partners, pro-rata in proportion to their respective contributed capital (including any Additional Capital as defined below), until all accrued and outstanding Preferred Yield and all capital contributions of the Partners have been repaid in full; (2) second, JV GP would be paid a catch-up payment in an amount equal to 20% of distributions of Preferred Yield paid to all Partners through such date; and (3) third, 80% to all Partners (pro- rata in proportion to contributed capital) and 20% to JV GP up to IRR of 18% to Limited Partners; and (4) fourth, 60% to all Partners (pro-rata in proportion to contributed capital) and 40% to JV GP for IRR above 18%. Upon the occurrence of a For Cause Removal, appropriate adjustments will be made to the allocation, distribution, Capital Account, and other provisions of this Agreement to give effect to the revision to Section 6.1(a) described in Section 8.11(b). Subject to the foregoing, from and after the Final Removal Date following a For Cause Removal Event, Section 6.1 shall be amended as set forth in Section 8.11(b) and will be applied as amended above for purposes of the definition of Target Capital Account (relating to allocations of Profit under Section 5.1).

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(b) Interpretation and Application.

(i) No interest or other compensation will be allowed to any Member by reason of the amount of its Capital Contribution except its share of distributions as set forth above. All Net Cash Flow received by the Company, if any, attributable to each calendar month of each fiscal year (or portion thereof) and distributable other than in connection with the liquidation of the Company will be applied and distributed as provided above. All distributions will be made to the Members entitled thereto based on the Manager's best estimate of the financial results of the Company through the date of the distribution, but will be subject to adjustment as between the Members promptly following the availability of the audited financial statements of the Company for the taxable and fiscal year.

(ii) The Manager shall make distributions of Net Cash Flow under this Section 6.1 if and to the extent of Available Cash. Thirty (30) days following final determination of actual Net Cash Flow for each fiscal year, there will be a final distribution to the Members to the extent that actual Net Cash Flow for such fiscal year exceeds prior quarterly distributions of estimated Net Cash Flow, or the Members will recontribute their respective shares of the excess of any interim distributions of estimated Net Cash Flow over the actual Net Cash Flow for such fiscal year.

(c) Tax Distributions. Within ninety (90) days following the end of each fiscal year or more often, if approved by Encore, to facilitate the periodic payment of estimated taxes (subject to any restrictions in any agreements for borrowed money and to the extent available to the Company without requiring the sale of assets or the pledge thereof at a time and on terms which the Manager believes are not in the best interests of the Company), Net Cash Flow may be distributed to the Members in an amount sufficient to cover the anticipated tax liabilities of each Member in proportion to the amount of taxable income allocated to each Member pursuant to Section 5.1, with the amount to be so distributed to be determined on the basis of the Company's Partnership Representative's reasonable Good Faith estimate of the highest maximum federal, state and local tax rates applicable to any of the Members after taking into account any amounts distributed to the Members for such fiscal year pursuant to Section 6.1(a) herein. Such Tax Distributions shall be deemed to be an advance against any Distributions to be distributed to the Members pursuant to Section 6.1(a) or Section 6.2.

6.2 Distributions of Net Proceeds from Asset Sale and Liquidation.

(a) General Rule. Net Proceeds derived from any transaction (a "Liquidating Transaction") involving the sale or other disposition of Assets, including upon liquidation of the Company, will be applied and distributed in the following order of priority set forth in clauses (i) – (iii) below, at such times and in such amounts as determined by Encore in its sole discretion:

(i) first, to the payment of any debts and liabilities of the Company applicable to the Asset or Assets involved in the Liquidating Transaction (other than Member Loans);

(ii) second, to the setting-up of reserves (the amount of which will be determined by Encore) to provide for any contingent, conditional or unmatured liabilities or obligations of the Company;

(iii) third, as set forth in Section 6.1(a).

(b) Timing of Payments. All payments under this Section 6.2 will be made as soon as reasonably practicable and in any event by the end of the fiscal year in which such liquidation or winding up occurs, or, if later, within 90 days after the date of such liquidation or the date such winding up occurs.

6.3 Distributions in Kind. Except as may be otherwise required by law, no distribution of property in kind by the Company will be permitted without the prior written consent of Encore. No Distributions in Violation of Agreement. No distribution from the Company will be paid to any Member who at the time of such distribution is in material breach of such Member's obligations under this Agreement beyond any applicable notice and cure period. Withholding and Other Taxes. Notwithstanding any other provision of this Agreement, the Manager is authorized to and will take all actions that it reasonably determines to be necessary or appropriate to comply with, and to cause the Company to comply with, any foreign or United States federal, state or local withholding or other tax payment obligation with respect to any allocation, payment or distribution by the Company to any Member or other Person. Except as otherwise required by law, (i) all taxes or amounts withheld from or paid in respect of distributions or allocations to any Member or former Member, including, but not limited to, due to the Member's or former Member's residence or other status for tax purposes, as reasonably determined by Encore, will be treated as a loan from the Company to such Member or former Member which is payable upon demand, a distribution to such Member or former Member under this Agreement or some combination thereof, as determined by Encore in its discretion, (ii) all taxes or amounts paid or economically borne by the Company (including pursuant to Section 6225 of the Code as amended by the Bipartisan Budget Act of 2015) that are attributable or allocable to a particular Member or former Member (as determined in the discretion of Encore) shall be treated as a loan from the Company to such Member or former Member which is payable upon demand, a distribution to such Member or former Member under this Agreement or some combination thereof, as determined by Encore in its discretion, (iii) all taxes or other amounts withheld from payments to the Company and not otherwise described in the preceding clauses (i) or (ii) will be treated as a reduction in the proceeds received by the Company and will not be treated as a distribution to any Member, and (iv) all refunds of withheld taxes that are received by any Member will be treated (without duplication) as a distribution to such Member. The Manager will use commercially reasonable efforts to determine whether any exemptions, waivers or reductions of any applicable withholding requirement may be available (including as a result of the status of any direct or indirect equity holder in any Member) and to provide sufficient advance notice of such available exemptions, waivers and reductions to allow a Member (or its direct or indirect equity holders) to meet any requirements necessary to obtain such exemption, waiver or reduction. Restricted Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Company, and the Manager on behalf of the Company, will not make a distribution to any Member on account of such Member's interest in the Company if such distribution would violate the Act or other applicable law. Tax Structuring. In the event of any disagreement between the Members regarding any tax matters (whether related to reporting, structure, treatment or otherwise) such disagreement shall be resolved by Encore, whose decision shall be binding and conclusive.

ARTICLE 7
RIGHTS AND OBLIGATIONS OF THE MEMBERS

7.1 Limited Liability. Subject to Section 6.5, no Member will be personally liable for any of the debts, liabilities, obligations or contracts of the Company, another Member, or the Manager, nor will a Member be required to lend any funds to the Company. A Member will only be liable to make payment of such Member's Capital Contributions as and when due hereunder. If and to the extent a Member's Capital Contributions will be fully paid, the Member will not, except as required by the express provisions of Sections 3.2, 6.1(b), and 6.5 or as required by the express provisions of the Act regarding repayment of sums wrongfully distributed to the Member, be required to make any further contributions to the Company. Control. Without the prior written approval of the Members, only the Manager will have the power to sign for or bind the Company. The Members will, however, have the Notice and approval rights expressly set forth elsewhere in this Agreement, as well as the approval rights set forth in Section 7.2 below. Member Consent Approval Rights. In addition to the other approval rights specifically set forth in this Agreement, neither the Company nor Manager shall take any of the following actions nor cause any Subsidiary to do any of the following without the prior written Member Consent:

(i) to the extent not expressly provided for in the Company Budget, applicable Project Business Plan or Project Budget or this Agreement, engage in any transaction between the Company or any Subsidiary on one hand and any Member or any Affiliated Person as to any Member on the other hand; *provided, however*, that in any event all such transactions will be conducted on an arm's length basis and charged at customary third party market rates as determined by Manager acting in Good Faith with the Good Faith consent of Encore;

(ii) use Company funds or the funds of any Subsidiary to extend credit or make loans to any Person other than the Company or a Subsidiary;

(iii) any action (including borrowing funds or issuing debt) that would cause the Company, any Subsidiary or any Assets to be a "Taxable Mortgage Pool" as defined in section 7701(i)(2) of the Code;

(iv) any action (or the failure to take any action) which would result in a breach of this Agreement or cause any representation of any Member or the Manager to become inaccurate or untrue;

(v) any modification or amendment of the organizational documents of the Company, any Subsidiary, including, without limitation, the certificate of formation, operating agreement, articles of incorporation or by-laws of the Company or such Subsidiary other than amendments reflecting issuance of additional equity in accordance with the terms of this Agreement;

(vi) any change to the U.S. federal income tax classification of any Subsidiary other than in accordance with Section 12.10 below;

(vii) changes to the date on which the fiscal year and fiscal quarters of the Company and its Subsidiaries will end other than in accordance with Section 12.10 below;

(viii) any other action requiring the Members Consent required by non- waivable provisions of the Act.

(b) Encore Final Decision Approval Rights. The Company or Manager for itself or on behalf of any Subsidiary shall not take any of the actions listed below (each an "Encore Final Decision Action") except as follows: (i) in each case, the subject matter of each Encore Final Decision Action shall be presented by Manager or Encore to each other Member, (ii) thereafter, each Member shall be given an opportunity to provide written feedback or consult with Encore regarding such Encore Final Decision Action, (iii) finally, Encore shall make and inform each Member in writing regarding its final decision regarding such Encore Final Decision Action, which decision of Encore shall be final and binding on the Company (an "Encore Decision") and the Manager shall be obligated to promptly implement (or to the extent such action shall not be in Manager's exclusive control, it shall use reasonable efforts to implement) such Encore Decision:

(i) approve each Project Business Plan (which includes a Project Budget), including all quarterly, annual and other updates and modifications thereto;

(ii) approve the Company Budget, including such amendments as may be proposed by Manager from time to time;

(iii) to the extent not expressly provided for in the applicable Project Business Plan, any sale, transfer or other disposition (other than pursuant to Article 11) or any financing or refinancing by the Company, Subsidiary relating to any material Asset, or securitized transactions involving the Assets;

(iii) enter into or modify, in any material respect, of (x) any loan documentation, (y) any loan terms, including the release or modification of the obligations or liabilities of any obligor under any loan document (including the modification of the principal amount owed, the interest rate, any prepayment fee, the maturity date or the amount or timing of payment) and the release or modification of the liens or security interests granted under any loan document, or (z) any Loan;

(iv) with respect to each Loan, the declaring of a default or the exercise of any material rights or remedies under any of the loan documents or in any proceedings, including suing or otherwise bringing any cause of action under any of the loan documents, foreclosing under any of the loan documents, accepting a deed in lieu thereof, or taking possession of any property assets;

(v) expenditures (other than Emergency Expenditures) that result of which (x) increases any cost line item in the Company Budget or applicable Project Budget, as updated from time to time, to the extent (i) the particular expense relates to a budgeted item and it exceeds the budgeted amount by no more than $20,000 and can be passed through as an operating expense to third parties, or (ii) the particular expense is no more than $20,000, of a capital nature, cannot be passed through (either because the leases do not allow for it, or it is reasonably determined by Manager that by passing it through the operating costs would exceed standard market values), but the expense is deemed to be non-discretionary by Manager acting reasonably and as verified by an independent third party. In addition, the capital expenditure must be of similar type and quality to the item(s) currently existing at any Project;

(vi) require any Additional Capital Contributions be paid to the Company by the Members;

(vii) use of Company funds or the funds of any Subsidiary to extend credit or make loans;

(viii) the guaranty or other inducement to, or indemnification of, a lender by the Company or any Subsidiary issued in connection with any borrowing;

(ix) any reimbursement by the Company or any Subsidiary pursuant to Section 8.3(b) of out-of-pocket expenses incurred by the Manager to the extent such expenses are not included in the applicable Project Business Plan, the Company Budget or the applicable Project Budget;

(x) acquire by purchase, lease or otherwise acquire any real or personal tangible property other than any Project;

(xi) enter into or materially amend or modify any Purchase Agreement or other plan or agreement to acquire additional material Assets (including but not limited to any new or redevelopment of Assets);

(xii) enter into any agreement with a term of greater than one year or with an aggregate value of greater than $20,000 to the extent such agreement is not expressly provided for in the then current applicable Project Business Plan or Project Budget;

(xiii) to the extent not expressly provided for in this Agreement or in the applicable Project Business Plan, any professional service contract or amendment thereto (including but not limited to any purchase agreement, property or asset management agreement, servicing agreement, brokerage contract, or development agreement);

(xiv) the submission of any material application, plan or request before or to a governmental authority relating to the development, permitting, entitlement or any other similar matter affecting any Project or the agreement to any terms, conditions or exactions related thereto, including without limitation to the extent required by a governmental authority as a condition to approval thereof;

(xv) the admission of additional Members to or removal of Members from the Company or any Subsidiary;

(xvi) any action to incur, renew, refinance or pay (other than the ordinary costs) or otherwise discharge indebtedness of the Company or any Subsidiary;

(xvii) any lease or rental agreement not included in, or not in compliance with any approved leasing parameters set forth in, the applicable

Project Business Plan;

(xviii) the guaranty by the Company or any Subsidiary of the obligations of any third party;

(xix) the selection of the Accountant for the Company or any Subsidiary; provided, that BDO is approved;

(xx) the selection of legal counsel for the Company or any Subsidiary to be selected by Encore and following such selection shall be appointed as Company legal counsel;

(xxi) any decision by the Company or any Subsidiary which is not made in the ordinary course of its business, including entering into any joint venture, merger, consolidation, or reorganization with any person;

(xxii) the commencement of any bankruptcy, liquidation, or insolvency proceedings or appointment of any receiver by the Company or any Subsidiary;

(xxiii) the organization or formation of any Subsidiary;

(xxiv) the commencement, prosecution or settlement of any litigation or arbitration or confession of any judgement by the Company or any Subsidiary;

(xxv) any material changes to the insurance coverage for the Company or any Subsidiary, to the extent not expressly provided for in the applicable Project Business Plan; and

(xxvi) any other decision which will be required for consolidation of the Projects in Encore's IFRS financials statements.

(c) Manner of Consent. The Manager will give to each Member a Notice requesting any such approval, accompanied by a description in reasonable detail of the matters as to which such approval is requested. Each Member will communicate by Notice to the Manager its approval or non-approval of any matters described in the Notice requesting such approval within 10 Business Days of the date of such Notice and setting forth in reasonable detail the reason for any disapproval. Any Member not so responding within such 10 Business Day period will be deemed to have disapproved of the matters contained in the Notice.

7.3 No Dissolution. Without the consent of all of the Members, no Member or Manager will take any actions, or permit any actions within its control to be taken, that would cause the dissolution of the Company pursuant to the Act. No Resignation. No Member will have the right to resign as a Member of the Company and no Member will have the right to demand a return of capital.

ARTICLE 8
RIGHTS AND OBLIGATIONS OF THE MANAGER

8.1 Responsibilities of the Manager.

(a) In General. The Manager will have full responsibility and exclusive and complete discretion in the management and control of the business and affairs of the Company for the purposes herein stated, will make all decisions affecting the Company's affairs and business, and will have full, complete and exclusive discretion to take any and all action that the Company is authorized to take and to make all decisions with respect thereto (subject, however, in all cases to the express requirements of this Agreement regarding required approvals of and Notice to the Members). The Manager's obligations are subject to the availability of Company funds in sufficient amounts and on a timely basis to discharge its obligations to supervise the operations of the Company and the Subsidiaries. The Manager shall make all business decisions of the Company, conduct (or cause to be conducted under its supervision) the business and affairs of the Company and carry out and implement the affairs of the Company and cause the Company in its capacity as managing member of each Subsidiary to carry out and implement the affairs of such Subsidiary within the scope of authority granted pursuant to this Agreement, all in accordance with the Company Budget, each Project Business Plan and each Project Budget.

(b) Anti-Corruption Compliance. In performing its obligations under this Agreement, the Manager and each Member covenants to, at all times during the term of this Agreement, undertake each of the following and to cause the Member and Manager's Affiliates, the Company and each Subsidiary to undertake each of the following:

(i) comply with all Anti-Bribery Laws;

(ii) maintain and operate under effective anti-bribery and anti- corruption policies, controls and procedures consistent with applicable Anti-Bribery Laws;

(iii) not make or offer, or promise to make or offer, or otherwise authorize or condone, the payment or giving of any bribe, rebate, payoff, facilitation payment, kickback or other unlawful payment or gift of money or anything of value which is prohibited under any anti-bribery or anti-corruption laws or regulations in the jurisdictions in which the relevant party operates;

(iv) not undertake or participate in any unlawful act which may have the intent, object or effect of contravening any provision of any Anti-Bribery Laws in any jurisdiction; and

(v) promptly notify each Member of any actual breach of this Section 8.1(b) upon becoming aware of same.

8.2 Management.

(a) In General. The Manager will supervise the operations of the Company and the Subsidiaries, including the maintenance and disposition of the Assets

subject to and in accordance with the terms of this Agreement. The Key Persons will have primary responsibility for the performance of Caliber's obligations with respect to the Assets. Caliber may at any time designate a replacement of any Key Person; provided, that the identity of such replacement Key Person designated by Caliber will be subject to the final approval of Encore.

(b) Company Budget and Project Business Plans and Budgets. Not less than 45 days prior to the acquisition of a new Project, the Manager will propose a Project Business Plan which shall be subject to the approval by Member Consent.

(c) Leverage and Loan Guarantees. Projects be partially financed by third-party lenders pursuant to terms approved by Encore, and any borrowing by the Company or any of its Subsidiaries will be non-recourse to the Company, the Subsidiaries, or any Member unless a Loan Guaranty is specifically consented to in writing by all Members. Notwithstanding the forgoing, Encore and its members, managers, and Affiliates (other than the Company) shall at no time be required to provide financing or other guarantees.

(d) Insurance. Encore or the Manager, as mutually agreed will obtain and maintain insurance coverage for the Company, as set forth more specifically in Schedule 8.2 attached hereto.

8.3 Other Business; Reimbursement.

(a) Subject to Section 8.9, the Members and any Affiliated Person of any Member may engage in or possess an interest in other business ventures (unconnected with the Company) of every kind and description, independently or with others, including, but not limited to, serving as general partner of partnerships and participating in competitive businesses in all of their phases. Neither the Company nor the other Members will have any rights in or to such independent ventures or the income or profits therefrom by virtue of this Agreement.

(b) The Company (or applicable Subsidiary) will from time to time reimburse the Manager for its reasonable out-of-pocket expenditures incurred in connection with the performance of its duties hereunder, including all third-party asset-specific and administrative costs such as legal, accounting, appraisal, environmental and structural review; *provided, however*, that all such expenditures in excess of $20,000 shall require prior approval by Encore. All reimbursement of expenses pursuant to this Section 8.3(b) will be subject to inclusion in and approval of the Company and applicable Project Budget and will not include any expenses (i) reimbursed or reimbursable under Section 12.1 or (ii) representing payroll or overhead costs of the Manager or of any Affiliate of the Manager. Expenses not included in the applicable Project Business Plan or the Company Budget or applicable Project Budget are subject to the approval of the Members as provided in Section 7.2(a) of this Agreement.

(c) The third party, out of pocket costs and expenses incurred by Manager and the other Members in connection with the formation of the Company, including the negotiation of this Agreement, will be borne by the Company.

8.4 Authority of the Manager.

(a) Subject to the express provisions of this Agreement, including, without limitation, all notice and/or approval rights of the Members, the Manager will have the authority to execute on behalf of the Company and the Subsidiaries such agreements, contracts, instruments and other documents as it will from time to time approve, such approval to be conclusively evidenced by its execution and delivery of any of the foregoing, including: (i) all such agreements, instruments, certificates or other documents as will be necessary or appropriate in connection with the maintenance of the Assets; (ii) checks, drafts, notes and other negotiable instruments; (iii) deeds of trust and assignments of rights; (iv) contracts for the sale of assets, deeds, leases, assignments and bills of sale; and (v) loan agreements, mortgages, security agreements, pledge agreements, interest rate swap or rate cap contracts, and financing statements. The signature of the Manager on all such instruments, agreements, contracts, leases, conveyances or documents, and (subject to the provisions of Section 4.6(a)), upon any checks, drafts, notes and other negotiable instruments, will be sufficient to bind the Company in respect thereof and conclusively evidence the authority of the Manager with respect thereto, and no third person need look to the application of funds or authority to act or require joinder or consent of any other party.

(b) Any Person dealing with the Company or the Manager may rely on a certificate signed by Manager:

(i) as to who are the Manager or Members hereunder;

(ii) as to the existence or nonexistence of any fact or facts which constitute conditions precedent to acts by Manager or are in any other manner germane to the affairs of the Company;

(iii) as to who is authorized to execute and deliver any instrument or document on behalf of the Company;

(iv) as to the authenticity of any copy of this Agreement and amendments hereto; or

(v) as to any act or failure to act by the Company or as to any other matter whatsoever involving the Company or any Member.

(c) Any Person relying upon this Section 8.4 will be informed of the provisions of Section 4.6 and Section 7.2(a), which contain certain limits on the authority of the Manager to bind the Company or to do, or cause to be done, certain acts.

(d) In the event that outside legal assistance is needed in connection with the financing, acquisition, disposition, leasing, operation, development or management of an Asset, Encore shall have the sole right to designate counsel to represent the Company and the Subsidiaries in any such matters.

8.5 Performance Standard.

(a) With respect to Company affairs, the Manager will always act as required under Delaware law for the benefit of the Company and will have a duty of good faith and fair dealing and will act in such a manner as may be reasonably required to promote the best interests of the Company, each Subsidiary within the scope of authority granted to Manager herein and subject to the ability of sufficient funds, including using the degree of skill and attention that a similarly situated asset manager would exercise with respect to comparable investments. With the consent of Encore, the Company may enter into agreements with the Manager or any Affiliated

Person with respect thereto for the disposition of property or rendition of services; *provided, however*, that the disposition of such property from, or the rendition of such services by, such Member or Affiliated Person has previously been approved by Encore. The Manager will in each case disclose, in advance, the existence of any such affiliation to each of the Members. All Encore decisions and directions hereunder shall be made in Good Faith.

(b) With respect to Company affairs, each of the Members shall have no fiduciary duties or obligations of any kind to any Member, the Company, Subsidiary or any other party. The Manager shall be held harmless in relying on the direction of Encore or its representatives and on such information, opinions, reports or statements provided by them.

8.6 Liability of the Manager.

(a) Liability to Third Parties. Neither the Manager nor its Affiliated Persons will be personally liable for any of the debts, liabilities, obligations or contracts of the Company, nor will the Manager or its Affiliated Persons be required to lend any funds to the Company. The Manager and its Affiliated Persons will only be liable to make payment of the Manager's and its Affiliated Persons' Capital Contributions as and when due hereunder. If and to the extent the Manager's Capital Contributions will be fully paid, the Manager and its Affiliated Persons will not, except as required by the express provisions of this Agreement or as required by the express provisions of the Act regarding repayment of sums wrongfully distributed to the Manager or its Affiliated Persons, be required to make any further contributions to the Company.

(b) Liability to the Company and Other Members. Except to the extent otherwise provided by applicable law or as set forth in this Agreement or in other written agreements among the Members or their Affiliated Persons which are binding on the party against whom enforcement of any such agreement is sought, the Manager and its Affiliated Persons will have no liability to the Company or to any other Member for any loss suffered by the Company which arises out of any action or inaction of the Manager or its Affiliated Persons, if (i) the Manager or its Affiliated Person reasonably determined in Good Faith, that such conduct was in the best interest of the Company, (ii) such course of conduct did not constitute fraud, criminal acts, gross negligence or willful misconduct of such Person, and (iii) such course of conduct did not constitute a breach of any provision or representation and warranty contained in this Agreement or any other agreement of the Manager or any Manager's Affiliated Person with the Company or a Subsidiary.

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8.7 Indemnification.

(a) To the fullest extent permitted by applicable law, the Company, and Encore with respect to any "Encore Decision" (as defined in Section 7.2(a)), will indemnify, hold harmless and defend the Manager for any loss, damage or claim by reason of any act or omission performed or omitted by Manager on behalf of the Company or the Subsidiaries and in a manner reasonably believed to be within the scope of the authority conferred on Manager by this Agreement, except that, without limitation, the Manager will not be entitled to be indemnified in respect of any loss, damage or claim incurred by it by reason of the Manager's or an Affiliate of the Manager's gross negligence, criminal acts, willful misconduct, or fraud with respect to such acts or omissions or in respect of any loss, damage or claim resulting from a material breach by Manager or an Affiliate of Manager of any provision or representation and warranty contained in this Agreement or any Joint Venture Agreement; *provided, however*, that any indemnity under this Section 8.7(a) will be provided out of and to the extent of Company Assets only, and no Member will have personal liability on account thereof.

(b) To the fullest extent permitted by applicable law, the Manager will indemnify the Members and their respective Affiliates for any loss, damage or claim incurred by reason of either the Manager's or its Affiliates' gross negligence, criminal acts, willful misconduct, fraud, or material breach by Manager or its Affiliates of any material provision, representation or warranty contained in this Agreement or any Joint Venture Agreement to which it is a party (the " Manager Indemnity Obligation") unless arising from an Encore Decision. If Manager does not do so on behalf of the Company, then any one or more Members may, in its or their own names(s), or in the name of the Company, or both, bring one or more actions to enforce the Manager Indemnity Obligation. The provisions of this Section 8.7(b) are for the benefit of each of the Members and shall be enforceable by each of them.

(c) To the fullest extent permitted by applicable law, the Members will indemnify the other Members, Manager and their respective Affiliates for any loss, damage or claim incurred by reason of such Member's gross negligence, criminal acts, willful misconduct or fraud or a material breach by such Member or its Affiliates of any provision or representation and warranty made by such Member contained in this Agreement or any other agreement of the Company, a Subsidiaries (the "Member Indemnity Obligation"). If the Manager does not do so on behalf of the Company, then any one or more Members may, in its or their own names(s), or in the name of the Company, or both, bring one or more actions to enforce the Member Indemnity Obligation. The provisions of this Section 8.7(c) are for the benefit of each of the Members and shall be enforceable by each of them. The provisions of this Section 8.7(c) are for the benefit of each of the Members and shall be enforceable by each of them.

(d) To the fullest extent permitted by law, except for the duties expressly imposed by this Agreement, no Member shall owe any duty of any kind (fiduciary or otherwise) toward the Company, the Subsidiaries, or any other Member. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Member otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Member. Notwithstanding anything to the contrary herein, Members shall owe such duties to the Company, the Subsidiaries, and any other Member as is required under Delaware Law.

Execution Version

8.8 Fees.

(a) Fund Management Fee. As compensation for fund management services provided to the Company and its Subsidiaries by Manager or its Affiliate with respect to the Projects, the Manager or its Affiliate, as applicable, will be entitled to be paid a fee equal to two percent (2%) of the total outstanding equity invested in such Project (the "Fund Management Fee"), in each case as provided in the Project Fund Management Agreements, which Fund Management Fee shall be calculated annually (and paid in four equal quarterly installments) and shall terminate upon the earlier of (a) five (5) years from the start of the subject Project; or (b) or when the subject Project is disposed.

(b) Property Management Fee. As compensation for property management services provided to the Company and its Subsidiaries by Manager or its Affiliate with respect to the Projects, the Manager or its Affiliate, as applicable, will be entitled to be paid a fee equal to a mutually agreed upon market rate on a property-by-property basis (collectively, the "Property Management Fee").

(c) Construction Management Fee. As compensation for construction management services provided to the Company and its Subsidiaries (i) by Manager or its Affiliate with respect to the Projects, the Manager or its Affiliate, as applicable, will be entitled to be paid a fee equal to two and one-half percent (2.5%) of construction

Hard Costs of such Project in the case of value- add development OR a fee equal to one- half percent (0.5%) of construction Hard Costs of such Project in the case of new development and (ii) by Encore or its Affiliate with respect to the Projects, Encore or its Affiliate, as applicable, will be entitled to be paid a fee equal to two and one-half percent (2.5%) of construction Hard Costs of such Project in the case of value- add development OR a fee equal to one- half percent (0.5%) of construction Hard Costs of such Project in the case of new development (collectively, the "Construction Management Fee"), in each case as provided in the Construction Management Agreements, which Construction Management Fee shall be paid subject to the approval of the applicable lender. "Hard Costs" shall be defined as the aggregate costs of all construction materials, direct labor charges, general contractor fees (with overhead and profit) relating to all site work, grading and utility connections and the like.

(d) Development Fee. As compensation for development services provided to the Company and its Subsidiaries (i) by Manager or its Affiliate with respect to the Projects, the Manager or its Affiliate, as applicable, will be entitled to be paid a fee equal to two and one-half percent (2.5%) of Hard Costs of such Project and (ii) by Encore or its Affiliate with respect to the Projects, Encore or its Affiliate, as applicable, will be entitled to be paid a fee equal to two and one-half percent (2.5%) of Hard Costs of such Project (collectively, the "Development Fee"), in each case as provided in the Development Agreements, which Development Fee shall be subject to the approval of the applicable lender.

(e) As compensation for services related to the acquisition of Projects (i) the Manager or its Affiliate, as applicable, will be entitled to be paid a fee in connection with each acquired Project equal to one-half percent (0.5%) of acquisition price of such Project and (ii) Encore or its Affiliate, as applicable, will be entitled to be paid a fee in connection with each acquired Project equal to one-half percent (0.5%) of acquisition price of such Project (collectively, the "Acquisition Fee").

(f) Disposition Fee. As compensation for services related to the sale and disposition of Projects (i) the Manager or its Affiliate, as applicable, will be entitled to be paid a fee in connection with each acquired Project equal to one-half percent (0.5%) of gross sale price of such Project and (ii) Encore or its Affiliate, as applicable, will be entitled to be paid a fee in connection with each acquired Project equal to one-half percent (0.5%) of gross sale price of such Project (collectively, the "Disposition Fee").

(g) Debt Placement Fee. As compensation for services related to placement of debt in connection with the acquisition or refinancing of Projects, the Company will be entitled to be paid a fee in connection with each Project financing equal to up to one percent (1%) of debt financing for each Project (collectively, the "Debt Placement Fee").

(h) Administrative Fee. As compensation for services associated with capital sourced for a Project (i) by an Affiliate or designee of Caliber or Encore, such Affiliate will be entitled to be paid a fee not to exceed 4.8% of total capital sourced by such Affiliate or designee for each Project plus reimbursement of pass-through expenses at cost; and/or (ii) the payable in accordance with Schedule 1.6 hereof (collectively, the "Administration Fee");*provided, however*, that the Administration Fee shall be charged as an addition to any capital raised.

(i) Other Fees. Any fees in addition to the Fund Management Fee, Investment Advisory Fee, Construction Management Fee, Development Fee, Acquisition Fee, Disposition Fee, Debt Placement Fees and the Administration Fee payable by a Subsidiary to the Company or a Caliber Affiliate or designee, Encore, the Manager or any of their respective Affiliates for investment banking, management, or other similar services, if any, will be agreed upon in advance by Encore in its sole discretion on a Project by Project basis in accordance with the applicable Project Budget based on market rates for such services (such approved fees, the "Fees"). Any fees paid by the Company or any Subsidiary to third parties for any services will reduce any Fees otherwise payable to the Company, the Manager or any of their respective Affiliates for such services.

8.9 ROFC Opportunities. During the Exclusivity Period, with to Behavioral Health Project build to suits only, Manager agrees to communicate with and discuss with Encore any potential ROFC Opportunities in which Manager and/or its Affiliates are considering as an investment opportunity. The Parties agree to act in Good Faith in discussing any such ROFC Opportunity to determine whether such opportunity should be pursued jointly, and, if so, on what terms and conditions. Notwithstanding anything herein to the contrary, the obligation of the Manager or its Affiliates to bring ROFC Opportunities other than Behavioral Health Project build to suits, to the attention of Encore shall not apply to (i) any project listed on Exhibit B attached hereto, or (ii) any business opportunity if such opportunity would violate any other agreement or instrument to which Manager or any Caliber Affiliate is a party. Neither Caliber (and its Affiliates) nor Encore (and its Affiliates) shall be obligated at any time to pursue any ROFC Opportunity jointly.

8.10 Removal of the Manager. Encore shall have the right to remove Caliber as Manager for any reason upon written notice ("Without Cause Removal Event") and, subject to the notice and cure rights set forth in Section 8.10(d), upon the occurrence of "Cause" as defined in Section 8.10(d) ("For Cause Removal Event" and together with Without Cause Removal Event, each a "Removal Event") to, in Encore's sole discretion, either (x) remove the Manager and admit a new Manager ("Final Removal Event") or (y) terminate any one or more of the Project Fund Management Agreement, and other services agreements or Joint Venture Agreement between the Manager and the Company or any Subsidiary with respect to the Project for which the Removal Event has occurred, thereby terminating the fees subject to such terminated services otherwise owed to Manager by the Company and Subsidiary, but solely with respect to the applicable Project ("Project Removal Event"). Notwithstanding anything to the contrary herein, in all events where a Without Cause Removal Event occurs, (i) the Manager shall retain the rights to payment under Sections 8.10(c) and Section 8.11(b) and (ii) Encore shall obtain the prior written consent of any third party lender or otherwise prior thereto confirming that no such removal will result in any violation of any agreement or instrument with a third party by Manager.

(a) Final Removal Event Rights.

(i) After the Final Removal Date (defined below), Encore will have the right to appoint, and cause the admission to the Company of, a new Manager and to determine such new Manager's economic interest (if any) in the Company. If the new Manager receives a Percentage Interest in the Company, the Percentage Interest of Encore and Caliber shall be reduced pro-rata to account for the Percentage Interest of the new Manager.

(ii) Encore will have the further right after admission of a new Manager pursuant to this Section, to cause the removal of the Manager and to unilaterally terminate (on behalf of the Company or any Subsidiary), without cause or payment of any damages or penalty for early termination, any property or asset management agreements, servicing agreements, development agreements and other services agreements or Joint Venture Agreement between the Company or any Subsidiary and the Manager or any of its Affiliates; provided that Manager or its Affiliates shall be paid all Fees pursuant to such Agreements through the date of termination thereof.

(iii) Encore will exercise the rights set forth in this Section 8.10(a)(x) by giving Notice thereof (a "Final Termination Notice") to the

Manager setting forth the ground for removal and the specific contemplated Final Removal Event. The Manager shall be automatically removed as Manager effective as of the date of such Final Termination Notice (the "Final Termination Date"); *provided, however*, that Encore shall act as Manager and shall not appoint a replacement Manager until the later to occur of (x) five (5) Business Days following delivery of the Termination Notice if the Manager does not initiate an Arbitration Proceeding pursuant to Article 12.6, and (y) if Manager timely initiates an Arbitration Proceeding, upon determination in such Arbitration Proceeding that a Final Removal Event has occurred (such date, the "Final Removal Date"). Nothing in this Section 8.10(a) will require the consent of the Manager.

(iv) Encore will be entitled to exercise the rights contained in this Section 8.10(a) without first seeking the judicial determination of the validity of such exercise.

(v) Upon the appointment of a successor Manager and the removal of the Manager, as provided in this Section 8.10(a), this Agreement will be amended to the extent necessary to reflect such appointment and removal, and a Certificate of Amendment to the Certificate will be filed in accordance with the Act. The Manager and the other Members agree to execute and deliver such further instruments and do such further acts and things as may be required to carry out the intent of this Section 8.10(a), including effectuating the admission to the Company of any new Manager appointed by Encore hereunder, but the failure to do so will not influence the effectiveness of the removal.

(b) Project Removal Event Rights.

(i) After the Project Removal Date (defined below), Encore will have the right to unilaterally terminate (on behalf of the Company or any Subsidiary), without cause or payment of any damages or penalty for early termination, any fund management agreements, and other services agreements or Joint Venture Agreement between the Company or any Subsidiary and the Manager or any of its Affiliates; provided that Manager or its Affiliates shall be paid all Fees pursuant to such Agreements through the date of termination thereof.

(ii) Encore will exercise the rights set forth in this Section 8.10(a)(y) by giving Notice thereof (a "Project Termination Notice") to the Manager setting forth the ground for removal and the specific contemplated fee and agreement termination with respect to the identified Project. Upon delivery of such notice, the Manager shall be automatically removed from performance of services identified in the Project Termination Notice (the "Project Removal Date" and together with the Final Removal Date, each a "Removal Date"). Nothing in this Section 8.10(a) will require the consent of the Manager.

(iii) Encore will be entitled to exercise the rights contained in this Section 8.10(b) without first seeking the judicial determination of the validity of such exercise.

(iv) Upon the appointment of a successor to perform the services terminated pursuant to the Project Termination Notice, Manager shall do and enter into such agreements as directed by Encore on behalf of the Company to appoint new service providers (which may, but are not required to be, Affiliates of Encore). The Manager and the other Members agree to execute and deliver such further instruments and do such further acts and things as may be required to carry out the intent of this Section 8.10(b).

(c) Unpaid Fees. In the event that the Manager is removed by Encore pursuant to Section 8.10, any accrued but unpaid Fees with respect to any period prior to the Removal Date will be paid in accordance with this Agreement. Except as provided in the preceding sentence, none of a removed Manager nor any of its Affiliates will be entitled to any Fees subsequent to the Removal Date. Notwithstanding anything to the contrary herein Section 8.10, if Caliber is removed as Manager without cause, all Fund Management Fees shall continue to be paid to Caliber until the earlier of: (i) twelve (12) months from the date of termination; or (ii) until the Project is sold under market/arm's-length terms or to an Encore affiliate at a BOV amount.

(d) Loan Guaranties. If Caliber is removed as the Manager as set forth herein, Encore will remove and replace Caliber on any bad boy loan carveout guaranties. Alternatively, if Caliber cannot be removed and replaced, then Encore will indemnify and hold harmless Caliber against "bad-boy" loan carveouts guaranties pursuant to a mutually acceptable indemnification agreement.

(e) "Cause". For purposes of this Section 8.10, the term "cause" will mean (i) the Manager's or any of its Affiliates fraud, gross negligence, criminal acts, willful misconduct in connection with this Agreement or any other Joint Venture Agreement, (ii) the Manager's or any of its Affiliates material breach of its obligations under this Agreement or any other Joint Venture Agreement, or the Manager's or any of its Affiliate's material default or material breach of its obligations under any other material agreement with the Company or a Subsidiary, in each case beyond any applicable notice and cure period, (iii) the loss of the services of any one or more of the Key Persons unless, if the loss of services of such persons is due to their death, incapacity or disability, the Manager replaces such persons with persons satisfactory to Encore, in its reasonable discretion, within 90 days after such loss, (iv) the Manager's voluntary withdrawal as the Manager of the Company without Encore's prior written consent, (v) without having first received the consent of Encore, expenditures by the Company or the making of any commitment by the Company in excess of the approved Company Budget or any Project Budget (subject to permitted deviations, if any, set forth therein), unless the same are terminated or otherwise refunded without liability to the Company within 30 days after such deviation occurs, and failure to complete acquisition or development of any Project on time (subject to Force Majeure) and in accordance with Project Budgets (subject to permitted deviations, if any, set forth therein) except for cost overruns funded by the Manager as required by Section 3.2 hereof, (vi) the bankruptcy or insolvency of the Manager, (vii) a transfer by the Manager in violation of Article 9, (viii) any material breach of this Agreement or any other Joint Venture Agreement, including, without limitation, any violation of Manager's obligations in Section 8.9 or making any investment or expenditure other than in accordance with Section 7.2, (ix) Manager's failure to provide a Member with access to the Books and Records of Company within five Business Days after written request, and (x) Manager's failure to operate Project in accordance with the applicable Project Budget and Board Book.

(f) Notwithstanding the foregoing, a material breach by Manager or its Affiliates of their obligations under this Agreement or any other Joint Venture Agreement, including, without limitation, upon the occurrence of any events described in subsection 8.10(d)(ii), will not constitute "cause" if (A) (x) that breach is not a failure to pay money and does not constitute fraud, or willful misconduct (a "Non-Monetary Breach") and (y) promptly following receipt of notice of the Non-Monetary Breach (which Notice will specify in reasonable detail the nature of the breach) the Manager or its Affiliate, as the case may be, commences to cure such breach and thereafter prosecutes to completion with diligence and continuity the curing thereof, and cures such Non- Monetary Breach within a reasonable period of time not to exceed 30 days following receipt of notice of the Non-Monetary Breach, (B) such breach is a failure to pay money that does not constitute fraud or willful misconduct and the Manager cures such monetary breach within 30 days following receipt of notice of such breach (which Notice will specify in reasonable detail the nature of the breach), or (C) such breach is the result of a Force Majeure Event.

8.11 Consequences of Removal of Manager. Management. With respect to the removed Manager after a Final Removal Event, from and after the Final Termination Date, the Manager will have no right to act on behalf of or for the Company and will have the status only of a Member and will not have the right to approve any of the matters subject to Member Consent, including without limitation as set forth in Sections 7.2(a) and 7.2(b); *provided, however*, any Manager so removed shall be restored to its rights to act on behalf of the Company if it is finally determined in an Arbitration Proceeding that a Final Removal Event did not occur.

(b) Distributions. From, after the Final Termination Date, and after a Without Cause Removal Event, Net Cash Flow will be distributed to Members per Section 6.1(a). From and after the Final Termination Date after a For Cause Removal Event, all amounts required to be distributed to Manager in accordance with Section 6.1(a)(iv) shall be held by the Company and delivered to (x) Encore, following the Removal Date or (y) to Manager, upon a determination in the Arbitration Proceeding that a For Cause Removal Event did not occur. From and after the Final Termination Date after a For Cause Removal Event, subject to Company holding Section 6.1(a)(iv) distributions in accordance with the preceding sentence, Net Cash Flow will be distributed to the Members as follows in lieu of Section 6.1(a):

(i) first, 100% to the Contributing Members, if any, in an amount equal to any Additional LP Return owed in accordance with this Agreement (which Additional LP Returns would in each case be paid to Contributing Members out of and reduce distributions and fees otherwise payable to Non-Contributing Members as provided in Section 3.7);

(ii) second, 100% to the Members pro-rata and in proportion to its respective Unpaid Preferred Return until all Unpaid Preferred Return then owed to the Members equals zero;

(iii) third, 100% to all Members pro-rata in proportion to its respective Unreturned Capital Contributions until such time all Unreturned Capital Contributions of the Members equals zero;

(iv) fourth, 100% to Encore until it has received its pro-rata share of all Net Cash Flow derived from Carried Interest Proceeds during such period, if any; and

(v) thereafter, 100% to the Members in proportion to its respective share of aggregate Capital Contributions to the Company through such date.

See Schedule 6.1 for an example of the above distribution.

Upon the occurrence of the foregoing, appropriate adjustments will be made to the allocation, distribution, Capital Account, and other provisions of this Agreement to give effect to the revision to Section 6.1(a) described above. Subject to the foregoing, from and after the Final Removal Date following a For Cause Removal Event, Section 6.1 will be applied as amended above for purposes of the definition of Target Capital Account (relating to allocations of Profit under Section 5.1).

(c) Arbitration. Any claim, dispute, disagreement or matter in question regarding whether "cause" exists will be decided by arbitration in accordance with the procedures set forth in Section 12.6

8.12 No Dissolution. Without the consent of all of the Members, the Manager will not take any actions, or permit any actions within its control to be taken, that would cause the dissolution of the Company pursuant to the Act.

ARTICLE 9
TRANSFERS OF INTERESTS

9.1 General Limitations. Transfers Restricted. The Manager will not suffer or permit any transfer of, or encumbrance or lien upon, the Manager's interest in the Company, and will use commercially reasonable efforts to ensure that the Key Persons and any other constituent Persons of the Manager will not suffer or permit any direct or indirect transfer of or encumbrance upon their shares of stock, membership interest, partnership interest or other equity interest in the Manager, nor will any involuntary transfer of any such shares or interests (by reason of death or divorce) of a constituent Person of the Manager be effective without, in each instance, obtaining the prior approval of Encore, which approval Encore may withhold in its absolute discretion. Notwithstanding the foregoing provisions of this Section 9.1(a): subject to Section 9.1(c) below, the members of the Manager may transfer such interests for the purposes of their personal estate planning to (a) the spouse, parents, siblings or descendants of the transferor, (b) one or more trusts for the primary benefit of one or more of the transferor, the spouse of the transferor, the parents of the transferor, the siblings of the transferor and the descendants of the transferor by will or under the laws of descent and distribution, or (c) the transferor's family limited partnerships, family limited liability companies, closely held corporations, unincorporated businesses or associations without obtaining the prior approval of Encore, provided that in of (a), (b), and (c) the transferor retains all of the power to control the Manager which such transferor held prior to the transfer.

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(b) Members. Except as permitted in this Section 9.1(b) and in Section 9.1(a), the interest of any Member in the Company may not be encumbered, hypothecated, sold, assigned or transferred without the consent of the Manager and Encore, which consent may be withheld for any reason. Notwithstanding the foregoing, any Member may assign its right to income, loss and distribution in the Company without the consent of the Manager and Encore; *provided, however,* that such assignee will have no right to vote, exercise any rights hereunder, nor will such assignee become a substitute Member until the Manager and Encore, in their sole discretion, approve such admission; and provided, further that without the consent of the Manager, no Member may transfer all or any portion of its interest in the Company if the Manager, in its sole discretion, determines that such transfer may cause the Assets of the Company to become "plan assets" for purposes of Title I of ERISA or Section 4975 of the Code under Department of Labor Regulations at 29 C.F.R. 2510.3-101. Notwithstanding the foregoing and without the prior approval of any Member or the consent of the Manager, subject to Section 9.1(c) below, Encore may sell, assign or otherwise transfer its interest in the Company to (i) any Affiliate of Encore (ii) any successor acquiring all or substantially all of the equity or assets of Encore, or (iii) any investment fund managed by any Encore or any Affiliate of Encore.

(c) No Transfer in Violation of Financing Documents. Notwithstanding anything to the contrary set forth in this Section 9.1, no transfer of, or encumbrance or lien upon, any Member's interest in the Company shall be made, recognized or consented to by the Members, Manager or Encore (as applicable) or be deemed effective if such transfer, lien or encumbrance will result in a violation or default under any Financing unless any consent thereto required under such Financing is obtained from the applicable third party.

(d) No Transfers Planned. Subject only to Article 3, Section 9.1(b) and Article 11, the parties to this Agreement acknowledge and agree that there is no prior agreement, understanding or plan to change Members' Percentage Interests, by transfer or otherwise, and that such a change is not expected given the structure of the transactions contemplated by this Agreement.

9.2 Obligations and Rights of Transferees and Assignees. Any Person who acquires in any manner whatsoever the Company interest (or any part thereof) of any Member of the Company, irrespective of whether such Person has accepted and assumed in writing the terms and provisions of this Agreement, will be deemed, by acceptance of the benefit of the acquisition thereof, to have agreed to be subject to and bound by all of the obligations of this Agreement, with the same force and effect as any predecessor in interest in the Company, will have only such rights as are provided in this Agreement, and, without limiting the generality of the foregoing, will not have the value of such Person's interest separately ascertained or receive the value of such interest, or, in lieu thereof, profits attributable to any right in the Company, except as set forth in this Agreement.

9.3 Non-Recognition of Certain Transfers. Notwithstanding any other provision of this Agreement, any transfer, sale, alienation, assignment, encumbrance or other disposition in contravention of any of the provisions of this Agreement will be void and ineffective, and will not bind, or be recognized by, the Company.

9.4 Required Amendments; Continuation. If and to the extent any transfer of an interest in the Company is permitted hereunder, this Agreement will be amended to reflect the admission to the Company of the transferee Member and, if such transfer is a transfer of all of the transferor Member's interest in the Company, the elimination of the transferor Member. Any Person who will become an additional or substituted Manager of the Company in accordance with this Agreement is hereby expressly authorized and directed to continue the business of the Company, subject to the terms and conditions of this Agreement.

9.5 Withdrawal. Except upon transfer of a Member's entire interest in the Company and the admission of the transferee as a substituted Member in compliance with the terms of this Agreement, no Member will have the right to withdraw from the Company except with the approval of all of the Members.

9.6 Compliance with Securities Laws. Any provision of this Agreement to the contrary notwithstanding, no transfer, sale, assignment or other disposition of any Company interest in the Company may be made except in compliance with the then applicable federal and state securities laws.

9.7 Continuing Liability of Transferor. Notwithstanding anything in this Article 9 to the contrary, unless a transferee or assignee is admitted as a substitute Member, the transferor will not be relieved or released of any liability hereunder.

ARTICLE 10
TERMINATION

10.1 Events of Dissolution.

(a) The Company will be dissolved and its affairs wound up upon a decision of all the Members to dissolve the Company; or

(b) The death, retirement, resignation, expulsion, bankruptcy or dissolution of a Member or the occurrence of any other event that terminates the continued membership of a Member will not cause, or give rise to any right of less than all of the remaining Members to cause, the dissolution of the Company.

(c) Dissolution of the Company will be effective on the day on which the event occurs giving rise to the dissolution, but the Company will not terminate until the Assets of the Company will have been distributed as provided herein and a certificate of cancellation will have been filed with the Secretary of State of the State of Delaware.

10.2 Application of Assets. In the event of dissolution, the Company will conduct only such activities as are necessary to wind up its affairs (including the sale of the Assets of the Company in an orderly manner), and the Assets of the Company will be applied and distributed in the manner and in the order of priority set forth in Section 6.2.

ARTICLE 11
TRANSFERS OF INTERESTS

11.1 Discretionary Sale.

(a) If Encore, in its sole discretion, determines that the Company or one or more applicable Subsidiaries should sell (a "Discretionary Sale") one or more of the Projects (the "Discretionary Sale Projects"), Encore shall deliver written Notice to the other Members (a "Discretionary Sale Notice") specifying the Discretionary Sale Projects that Encore desires to sell and requesting the other Members to state whether it elects to bid or elects not to bid on such Discretionary Sale Projects. No later than 15 Business Days following the date of the Discretionary Sale Notice, each other Member shall deliver Notice to Encore either (i) electing to bid on such Discretionary Sale Projects, in which case the sale of such Discretionary Sale Projects will be conducted in accordance with the procedures set forth on Exhibit C, or (ii) electing not to bid on such Discretionary Sale Projects, in which case the sale of such Discretionary Sale Projects will be conducted in accordance with the procedures set forth on Exhibit D. If a Member does not timely deliver such Notice electing to bid or not to bid within such 15 Business Day period, then such Member will be deemed to have elected not to bid. If a Member elects (or is deemed to have elected) not to bid on the Discretionary Sale Projects, then such Member shall not have the right to bid under the Discretionary Sale or to otherwise participate in the purchase of any direct or indirect interest in the Discretionary Sale Projects.

(b) Once Encore delivers a Discretionary Sale Notice to the other Member, the other Members may not initiate a buy-sell transaction under Sections 11.1, or 11.2 unless and until the Discretionary Sale has (i) lapsed, (ii) been nullified by agreement of the parties to the transaction or (iii) been completed. Encore shall have the right, in its sole discretion, to terminate a Discretionary Sale at any time before a binding purchase and sale agreement is executed by the Company or the applicable Subsidiary.

11.2 Drag-Along Rights. In the event Encore desires to sell all of the issued and outstanding membership interests of the Company on an arm's-length basis substantially for cash and/or for securities for which there exists a ready public market, each other Member or Members (hereinafter referred to collectively as the "Minority Members") agree that, if requested by Encore, such Minority Members will sell their membership interests in accordance with the provisions of this Section 11.2. Encore shall make such a request by notifying the Minority Members in writing of the proposed sale at least twenty (20) days prior to the proposed closing date of the transaction, which notice shall describe the principal terms of the proposed sale, including, without limitation, the name and address of the prospective purchaser, the aggregate purchase price, the terms of payment, and the time and place of the proposed sale. In a sale of all outstanding Company membership interests, the transaction purchase price would be paid to the

Members in accordance with the distribution waterfall set forth in Section 6.2(a).

ARTICLE 12
MISCELLANEOUS

12.1 Payment of Bid Preparation and Closing Expenses. All Bid Preparation and Closing Expense Budget and Board Book for a Targeted Asset approved by Encore, shall be paid by the Company, which amounts, if required, shall be funded by each of the Members pro-rata in proportion to their Percentage Interests. Notwithstanding the foregoing, the following exceptions shall apply:(a) If Encore has fully approved a Project Budget and Board Book for a Targeted Asset and Encore fails to contribute its' pro rata project equity when there has been no change in the approval model and there is no reason for the failure of the Project to close except that Encore did not contribute its' project equity, then pursuit and deposit costs (*i.e.*, dead deal costs) shall be borne 100% by Encore. Notwithstanding the foregoing, if Caliber then closes the same Project, Encore shall be reimbursed the dead deal costs that Encore previously funded.

(b) If Encore has accepted and approved of pursing a Targeted Asset during the Seven Day Period in Section 8.9(a)(ii) herein, fully approved a Project Budget and Board Book for a Targeted Asset and it does not close for any reason other than solely Encore's failure to contribute its pro rata share of project equity, then dead deal costs shall be borne fifty percent (50%) by Encore and fifty- percent (50%) by Caliber.

(c) If a Project does not close prior to Encore having exercised its ROFR to either accept or reject a proposed Project, then dead deal costs shall be borne one hundred percent (100%) by Caliber.

12.2 Notices.

(a) Any and all notices, consents, approvals, offers, elections and other communications required or permitted under this Agreement ("Notice") will be deemed adequately given only if in writing and the same will be delivered either (i) in hand (with written confirmation of receipt), (ii) when received by the addressee if sent by Federal Express or similar nationally recognized expedited commercial carrier (receipt requested), (iii) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid, or (iv) by email, provided that a confirmation copy is sent within one (1) business day by the method set forth in clause (i) or (ii) of this provision, addressed to the recipient of the notice, as required below in Section 12.2(c), with all freight charges prepaid (if by Federal Express or similar carrier).

(b) All communications to be sent hereunder will be deemed to have been given for all purposes of this Agreement upon the date of receipt or refusal.

(c) All Notices will be addressed:

If to Caliber, to:

Caliber/Encore Opportunistic Growth Fund
8901 E. Mountain View Rd, Ste. 150
Scottsdale, AZ
Telephone: (480) 296.7500
Email: _____
Attention: _____

with a copy to
(which shall not constitute notice hereunder):

Carlton Fields, LLP
2029 Century Park East, Ste. 1200
Los Angeles, California 90067-2913
Telephone: 310.843.6336
Email: mlevinson@carltonfields.com
Attention: William Mark Levinson

If to Encore, to:

Encore Caliber Holdings, LLC
6900 Dallas Parkway, 3rd Floor
Plano, TX 75024
Telephone: (480) 296.7500
Email: bsangani@encore.bz
Attn: Bharat Sangani

With a copy to:

Encore Enterprises, Inc.
6900 Dallas Parkway, 3rd Floor
Plano, TX 75024
Telephone: (214) 259.7009
Email: cprice@encore.bz
Attn: Cynthia Price

(d) By giving to the other parties written Notice thereof, the parties hereto and their respective successors and assigns will have the right from time to time and at any time during the term of this Agreement to change their respective addresses effective upon receipt by the other parties of such notice and each will have the right to specify as its address any other address within the United States of America.

(e) Notices, demands, requests or other communications given or received by Encore Properties, Ltd. will be deemed given or received by all of the entities comprising Encore and will be binding on all of the entities comprising Encore as if given or received by each of them.

12.3 Certain Rules of Construction. Except as otherwise explicitly specified to the contrary or unless the context clearly requires otherwise, (a) the capitalized term "Article" refers to articles of this Agreement, (b) the capitalized term "Section" refers to sections of this Agreement, (c) the capitalized term "Schedule" refers to schedules

to this Agreement, (d) the capitalized term "Exhibit" refers to exhibits to this Agreement, (e) references to a particular Article or Section include all subsections thereof, (f) the word "including" will be construed as "including without limitation", (g) references to a particular statute or regulation include all rules and regulations thereunder and any successor statute, regulations or rules, in each case as from time to time in effect, (h) references to a particular Person include such Person's successors and assigns to the extent not prohibited by this Agreement, (i) words such as "herein", "hereinafter", "hereof" and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear and (j) the singular will include the plural and the masculine gender will include the feminine and neuter, and vice versa. Binding Provisions. The covenants and agreements contained herein will be binding upon, and inure to the benefit of, the heirs, legal representatives, successors and assigns of the respective parties hereto. Applicable Law. This Agreement will be construed and enforced in accordance with the laws of the State of Delaware (without regard for the conflict of laws principles thereof). In the event of a conflict between any provision of this Agreement and any non-mandatory provision of the Act, the provision of this Agreement will control and take precedence. Arbitration of Certain Disputes.

(a) Any claim, dispute, disagreement or matter in question with respect to this Agreement will be decided by binding arbitration administered by JAMS (the "Association") pursuant to JAMS' Streamlined Arbitration Rules and Procedures then in effect ("Arbitration Proceeding"), subject to the limitations stated in this Section 12.6. This agreement to arbitrate will be specifically enforceable under the prevailing arbitration law.

(b) Any arbitration action pursuant to this Section 12.6 may be initiated by any party by the delivery by such party to the other party of a written demand for arbitration (an "Arbitration Notice"). The costs owed to the Association and the arbitrators for any arbitration action will be paid by the party determined by the arbitrators to be the losing party in such action or, if no such party is so selected by the arbitrators, in equal shares by the parties to such action; *provided, however*, that any such costs payable to the Association (other than the filing fee required by the Association) prior to the determination by the arbitrators will be advanced in equal shares by the parties to such action. Any demand for arbitration must contain a statement, with respect to each claim alleged therein, indicating the demanding party's position with respect to such claim and the reason therefor. Any answer to any such demand for arbitration must contain a statement, with respect to each claim alleged in such demand, indicating the answering party's position with respect to such claim and the reason therefor.

(c) Any arbitration under this Section 12.6 will be held in Dallas, Texas.

(d) In all Arbitration Proceedings the award of the arbitrators (i) will be issued in written form, (ii) if applicable, will designate one of the parties as the losing party owing costs for the arbitration, (iii) will indicate the arbitrators' decision with respect to each of the individual claims presented by each party and (iv) will contain a brief statement of the reasons supporting each decision.

(e) All Arbitration Proceedings will be heard and decided by one arbitrator who will be appointed in the following manner: Within 10 days after an arbitration demand or submission has been filed with the Association, the Association will submit simultaneously to each party to the dispute an identical list of at least 12 names of persons chosen from the Association's national roster of JAMS Neutrals. Each party to the dispute will have 10 days from the mailing date in which to cross off any names to which such party objects, number the remaining names indicating the order of preference, and return the list to the Association. If a party does not return the list within the time specified, all persons named therein will be deemed acceptable. From among the persons who have been ranked as a preference on all lists, and in accordance with the designated order of mutual preference, the Association will invite the acceptance of an arbitrator to serve. If the parties fail to agree upon the arbitrator, or if an acceptable arbitrator is unable to act, the Association will submit a second and, if necessary, a third list of names, subject to the same procedure. If, after 3 such lists have been submitted, the parties have not agreed upon an arbitrator, the Association will have the power to appoint such arbitrator as are needed from other members of the Association's panel without the submission of any additional lists. In all Arbitration Proceedings the arbitrator will decide the questions in dispute in accordance with the law of the State of Delaware. This requirement is not merely directory, but constitutes a limitation upon the powers of the arbitrator.

12.7 Separability of Provisions. Each provision of this Agreement will be considered separable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality will not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal. Section Titles. Section titles are for descriptive purposes only and will not control or alter the meaning of this Agreement as set forth in the text. Further Assurances. The Members will execute and deliver such further instruments and do such further acts and things as may be required to carry out the provisions hereof and purposes of this Agreement. Future Subsidiaries/Restructuring. In the event Encore determines such would be beneficial for tax or other reasons, Encore can direct and the Manager shall then acquire any Targeted Asset in a Subsidiary that will be a limited partnership rather than a wholly owned limited liability company. In addition, Encore may determine (a) that it is in the best interest of the Members for the Company to transfer or distribute one or more Assets, a Subsidiaries into an Entity or Entities wholly-owned by the Company, or (b) that a holding company structure may effectuate the purposes of this Agreement. In such event, the Manager shall cause the Company to form (or the Members shall independently form) one or more limited liability companies (or limited partnerships or other form or entity if so directed by Encore), wholly-owned by the Company (or directly owned by the Members) into which it may convey or otherwise (i) transfer title to one or more Assets, a Subsidiaries or portions thereof, or (ii) carry on other business ventures. In the event of any such restructuring of the form of the ownership of the Assets or Subsidiaries or any such distribution or transfer, each of the Members agrees to execute such limited liability agreements and such other agreements, instruments and documents otherwise consistent with the terms and provisions of this Section 12.10 and/or otherwise reasonably necessary to implement any such restructuring. In the event the creation of Subsidiaries or consummation of a restructuring pursuant to this Section 12.10 results in adverse financial impact on Caliber or any Member, the Company would amend this Agreement or enter into such other transactions as reasonably necessary to cause Caliber and the Members to receive their respective allocation of profit, loss, or payment of distributions in an amount equivalent to what it would receive pursuant to the structure otherwise provided in this Agreement. In addition, Encore shall pay any fees or costs payable to a governmental authority by reason of any such creation of Subsidiaries or restructuring, including any transfer taxes or recording fees. Entire Agreement; Merger and Integration. This Agreement and the schedules and exhibits attached constitute the entire agreement between the parties hereto with respect to the transactions contemplated herein, and supersede all prior understandings or agreements between the parties. The Parties agree that, by executing this Agreement, each Party expressly warrants and represents that no promise or agreement which has not herein expressed has been made to him, her, or it in executing this Agreement, and that said Party is not relying upon any statement or representation of any agent of the parties being released hereby, and that each Party is relying upon his, her, or its sole and independent judgment in executing this Agreement and agreeing to be bound by its terms and conditions. Waiver. The failure by any party hereto to insist upon or to enforce any of its rights will not constitute a waiver thereof, and nothing will constitute a waiver of such party's right to insist upon strict compliance with the provisions hereof. No delay in exercising any right, power or remedy created hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or remedy by any such party preclude any other or future exercise thereof or the exercise of any other right, power or remedy. No waiver by any party hereto to any breach of or default in any term or condition of this Agreement will constitute a waiver of or assent to any succeeding breach of or default in the same or any other term or condition hereof. Each party hereto may waive the benefit of any provision or condition for its benefit contained in this Agreement, but only if such waiver is evidenced by a writing signed by such party. Amendment. This Agreement will not be amended without the prior written consent of all the Members. Agreement in Counterparts. This Agreement and any document contemplated herein, may be executed in multiple counterparts by transmitting such document(s) via electronic delivery (including email or similar) in *.pdf format or DocuSign™ format or similar, each of which will be considered an original and together will constitute one and the same Agreement, binding upon all of the parties hereto. Survival. Notwithstanding anything to the contrary in this Agreement, (a) Sections 2.10, 8.9, 12.1, 12.2, 12.4, and 12.6, this Section 12.15, and Articles 5 and 6 will survive (i) the termination of this Agreement and (ii) the dissolution and termination of the Company and (b) each of the Manager and the Members will continue to be subject to, and bound by, the terms and provisions of such Sections after (i) the resignation of such Person as a manager or a member of the Company, (ii) the termination of this Agreement and (iii) the dissolution and termination of the Company. Legal Counsel of each Member. Each Member hereby acknowledges and agrees that Carlton Fields, LLP and any law firm retained by Caliber or Encore's General Counsel, Cynthia Price and any law firm retained by Encore, in connection with the organization of the Company or any Subsidiary, the offering of interests in the Company or any Subsidiary, the management and operation of the Company or any Subsidiary or any dispute between Caliber and Encore and any other Member, are acting as counsel to such parties separately and as such does not represent or owe any duty to such other Member or to the Members as a group in connection with such retention. Attorneys' Fees. In the event that any party hereto institutes any legal suit, action or proceeding, including arbitration, against another party in respect of a matter arising out of or relating to this Agreement, the prevailing party in the suit,

action or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action or proceeding, including reasonable attorneys' fees and expenses and court costs. WAIVER OF JURY TRIAL. TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH MEMBER WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE CONDUCT OF THE PARTIES, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER IN CONTRACT, TORT OR OTHERWISE. Each Member acknowledges that it has been informed by the other Members that the foregoing sentence constitutes a material inducement upon which the other Members have relied and will rely in entering into this Agreement. Each Member may file an original counterpart or a copy of this Agreement with any court as written evidence of the consent of the Members to the waiver of their rights to trial by jury. Successors and Assigns. Subject to the restrictions on Transfers set forth herein, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. This Agreement may not be assigned by any Member except as permitted by this Agreement and any assignment in violation of this Agreement shall be null and void.

12.20 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto (and their respective heirs, executors, administrators, successors and permitted assigns) and nothing herein, express or implied, is intended to or shall confer upon any other Person, including any creditor of the Company, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(Signatures appear on next page)

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be executed by a duly authorized officer as of the date first set forth above.

MEMBER AND MANAGER:

CALIBER SERVICES, LLC,
a Delaware limited liability company

By: /s/ John C. Loeffler II
John C. Loeffler II

MEMBER:

ENCORE CALIBER HOLDINGS, LLC,
a Delaware limited liability company

By: /s/ Bharat Sangani
Bharat Sangani, Authorized Signatory

[Signature Page to Caliber/Encore Opportunistic Growth Fund - Limited Liability Company Agreement]

Exhibits and Schedules Intentionally Omitted

Exhibit 10.14

FORM OF MANAGING DEALER AGREEMENT

This Managing Dealer Agreement (this "Agreement"), dated as of _____, 2023 ("Effective Date"), is entered into by and among, on the one hand, Skyway Capital Markets, LLC, a Florida limited liability company ("SCM" or the "Managing Dealer"), and on the other hand _____ (the "Issuer") and CaliberCos (the "Company"). The Issuer, Managing Dealer, and Company are collectively referred to herein as "Parties" and each as a "Party." Concurrently herewith, SCM and Company are entering into that certain Sponsor Consulting Agreement whereby SCM has agreed to assist Company in connection with launching a new investment offering ("Sponsor Consulting Agreement").

1. Offering.

a. The Issuer intends to offer and sell _____ Member Units in a private placement (the"Private Offering") exempt from registration under the Securities Act of 1933, as amended (the "Securities Act"), pursuant to Rule 506(c) under Regulation D promulgated under the Securities Act ("Regulation D"), on the terms and conditions described in the Issuer's Confidential Private Placement Memorandum with respect to the Units dated _____, 202_ (as the same may be amended, revised or supplemented from time to time, the "PPM").

b. It is understood that no sale of the Units shall be regarded as effective unless and until accepted by the Issuer. The Issuer reserves the right in its sole discretion to refuse to sell any of the Units to any prospective purchaser. The Units will be offered during a period commencing on the initial date of the PPM and continuing _____.

c. The Units will be offered only to "accredited investors" (as defined in Rule501(a) of Regulation D under the Securities Act) in one or more closings to be held on such dates and in such amounts as disclosed in the PPM (each, a "Closing"). The Issuer and Company shall take reasonable steps to verify purchasers' accredited investors status as stated in Rule 506(c)(2)(ii) and conduct the requisite verification that each investor is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D under the Securities Act. Rule 506(c) identifies multiple non-exclusive methods of verification of "accredited investors" and the Issuer and Company may engage a third-party service for such verification, at the expense of the Issuer or Company. The Issuer may also rely on the safe harbor of obtaining written confirmation from registered broker-dealers, SEC registered investment advisers, licensed attorneys, or a certified public accountant. SCM as the Managing Dealer shall take reasonable steps to coordinate with the Issuer, Company's distribution team and Selling Group Members to facilitate a compliant accreditation verification process.

d. Managing Dealer will offer the Units through Selling Group Members (as defined below) in various distribution channels as described in the PPM, and in transactions through investment adviser representatives acting as employees of either (A) a registered investment Company registered under the Investment Advisers Act of 1940, as amended (the "Advisers Act"), or (B) an investment adviser registered under state law (collectively, "Participating RIAs").

e. Managing Dealer will engage or hire sub-placement agents and broker-dealer firms who are members in good standing of the Financial Industry Regulatory Authority, Inc. ("FINRA") (collectively, the "Selling Group Members") to solicit purchasers of the Units in the Private Offering at the per Unit purchase price to be paid in accordance with, and otherwise upon the other terms and conditions set forth in, the PPM.

f. Managing Dealer shall enter into a Selling Group Member Agreement substantially in the form attached as Exhibit A-1 to this Agreement or in such other form as shall be pre-approved in writing by the Issuer (a "Selling Group Member Agreement") with each Selling Group Member.

g. Managing Dealer acknowledges and agrees that it does not have the power to legally bind or commit the Issuer or any of its affiliates or any of their respective directors, controlling unitholders, executives, agents or representatives (collectively, the "Issuer Parties" and each an "Issuer Party"), and shall not have the authority in any transaction to act as agent for the Issuer or any Issuer Party other than as expressly provided for in this Agreement.

2. Engagement of Managing Dealer.

On the basis of the representations, warranties and covenants herein contained, but subject to the terms and conditions set forth herein, Issuer hereby engages and appoints Managing Dealer on a exclusive basis in connection with the offer and sale of the Units during the period commencing with the initial date of the PPM and ending on the Termination Date (as defined in Section 6) to engage Selling Group Members to solicit purchasers of the Units in the Private Offering. The foregoing notwithstanding, Parties acknowledge and agree that Issuer is transitioning to SCM as the exclusive Managing Dealer and such transition will be completed within 60 days of the Effective Date; further Managing Dealer acknowledges and agrees that it's contemplated that Tobin & Co may be engaged to continue to assist Issuer in connection with the Private Offering and other unrelated matters per Issuer direction. Managing Dealer shall:

a. assist Issuer in preparing the PPM and all Offering documents describing the Issuer and the Units to be offered (such Offering documents, together with any amendments or supplements thereto, and any letter, circular, notice or other communication to be used in placing the Units is referred to herein as the "Offering Documents");

b. not make the PPM and Offering Documents available to any prospective Selling Group Member until the PPM and all Offering Documents and their use have been approved by the Issuer; provided, however, that SCM shall only provide Selling Group Members with such information concerning the Issuer, Company and Offering as may be contained in (i) the PPM, (ii) the Subscription Agreement (as defined below); and (iii) the Offering Documents that are approved by the Issuer or the Company prior to such use;

c. assist the Issuer in the preparation and implementation of a marketing plan with respect to the proposed Offering; provided, however, that SCM will cause each Selling Group Member by written agreement and instruction to perform placement and marketing activities in accordance with the terms of this Agreement and applicable laws and regulations, including those in the jurisdiction of each purchaser of Units;

d. use its "best efforts" to organize a Selling Group to arrange the placement of the Units;

e. distribute the PPM and Offering Documents to Selling Group Members and coordinate Selling Group Members' due diligence trips, site visits, meetings with management, etc.;

f. file all sales material and marketing literature with the FINRA Advertising Regulation Department for review;

g. comply, and cause each Selling Group Member by written agreement and instruction to comply, with all applicable record keeping requirements under any applicable federal or state securities laws; provided, however, that Managing Dealer will cause each Selling Group Member by written agreement and instruction to retain records with respect to each investor who purchases the Units in the Private Offering for at least six (6) years or for a period of time not less than that required in order to comply with all applicable federal, state and other regulatory requirements, whichever is later, which shall include information used to determine that the investor meets the suitability standards set forth in the PPM and otherwise required pursuant to the internal policies of the respective Selling Group Member;

h. remain (i) duly registered as a broker-dealer pursuant to the provisions of the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), (ii) a member in good standing of FINRA, and (iii) a broker or dealer duly registered as such in those jurisdictions where the Managing Dealer is required to be registered in order to carry out the Offering as contemplated by this Agreement; provided, however, that the Managing Dealer and its employees and representatives shall at all times possess and maintain all required licenses and registrations to act under this Agreement; further provided, however, that there is no provision in the Managing Dealer's FINRA membership agreement that would restrict the ability of the Managing Dealer to carry out the Offering as contemplated by this Agreement;

i. conduct the Private Offering in a transaction or series of transactions intended to be exempt from the registration requirements under the Securities Act, and cause each Selling Group Member by written agreement and instruction to conduct all of its offering and solicitation efforts in conformity Rule 506(c) of Regulation D and all other applicable federal and state securities laws and other regulatory requirements;

j. timely furnish or cause to be furnished to the Issuer upon request a complete list of all persons who have been offered the Units by the Selling Group Members, including, without limitation, all information required for the Issuer to comply with Regulation D and all other applicable federal and state securities laws and other regulatory requirements;

k. provide status reports to the Issuer and/or Company with respect to the Offering upon request; and

l. provide such other information and execute and deliver such documents as the Issuer or the Company may request to verify the accuracy of the Managing Dealer's representations and warranties contained herein.

3. Representations and Warranties of the Issuer.

The Issuer hereby represents and warrants to SCM, and each Selling Group Member with whom SCM has entered into or will enter into a Selling Group Member Agreement, that as of the date hereof and as of each date that the Units are sold hereunder; provided, that, to the extent such representations and warranties are given only as of a specified date or dates, the Issuer only makes such representations and warranties as of such date or dates:

a. This Agreement has been duly authorized, executed and delivered by the Issuer and constitutes a valid and legally binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, except as the same may be subject to the effects of (i) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws now or hereafter in effect relating to or affecting creditors' rights generally and (ii) general principles of equity (regardless of whether considered in a proceeding at law or in equity);

b. The Issuer has obtained all necessary approvals, consents, licenses and registrations from any governmental entity or any other person or entity necessary to perform its obligations hereunder and shall maintain all such approvals, consents and registrations in full force and effect during the term of this Agreement and the performance of such obligations will not contravene or result in a breach of any provision of its certificate of incorporation, by-laws or other organizational document or any agreement, instrument, order, law or regulation binding upon it;

c. The Issuer has complied and will comply in all material respects with all applicable federal and state securities laws in connection with the offering of the Units

d. The Issuer has or will prepare copies of the Offering Documents, as the same may be amended or supplemented by Issuer from time to time, including the subscription agreement for the Units, for delivery to prospective purchasers of the Units in accordance with the instructions provided by SCM (the "Subscription Agreement"); provided that SCM and the Selling Group Members will be entitled to rely upon the accuracy and completeness of all information provided by the Issuer or Company and, subject to the other provisions of this Agreement and the Sponsor Consulting Agreement, shall have no additional obligation to independently verify the accuracy or completeness of such information other than information relating to SCM and its affiliates and the information in the section of the PPM entitled "Plan of Distribution";

e. The PPM and all Offering Documents will not, as of their date and as supplemented or amended by the Issuer as of the date of each Closing, intentionally and knowingly contain an untrue statement of a material fact or intentionally and knowingly omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the Issuer makes no warranty or representation with respect to any statement contained in the PPM or Offering Documents made in reliance upon and in conformity with information furnished to the Issuer by SCM or any Selling Group Member for use in the PPM;

f. Neither the Issuer, nor any of its affiliates, nor any person acting on their respective behalf, directly or indirectly, will offer or sell during the Term, or has knowingly offered or sold within the last 12 months preceding the Term, the Units or any securities convertible or exchangeable into the Units, in any manner prohibited by Rule 502(c) of the Securities Act of 1933, as amended.

g. The Issuer will, subject to timely receipt of all applicable information from SCM, timely file an electronic Notice of Exempt Offering of Securities on Form D relating to the Offering with the Securities and Exchange Commission (the "SEC") under Regulation D and any required amendments thereto;

h. None of the Issuer, any of its predecessors, any director, executive officer, other officer of the Issuer participating in the Offering or any beneficial owner of 20% or more of the Issuer's outstanding voting equity securities, calculated on a basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Issuer in any capacity at the time of sale (each, an "Issuer Covered Person" and, together "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) through 506(d)(1)(viii) under the Securities Act (a "Disqualifying Event"), except for a Disqualifying Event covered by Rule 506(d)(2) or Rule 506(d)(3) under the Securities Act; provided, however, that the Issuer has exercised reasonable care to determine: (i) the identity of each person that is an Issuer Covered Person and (ii) whether any Issuer Covered Person is subject to a Disqualifying Event; further provided, however, that the Issuer has complied, to the extent applicable, with its disclosure obligations under Rule 506(e) of the Securities Act, and has furnished to

SCM a copy of any disclosures provided thereunder;

i. With respect to each Issuer Covered Person, the Issuer has established procedures reasonably designated to ensure that the Issuer receives notice from each such Issuer Covered Person of: (i) any Disqualifying Event relating to that Issuer Covered Person and (ii) any event that would, with the passage of time, become a Disqualifying Event relating to that Issuer Covered Person, in each case, occurring up to and including, the last date on which Limited Liability Interest are offered in the Offering; and

j. The Issuer will be structured and operated in a manner to at all times comply with the exemption from registration provided in Section 3(c)(5)(C) of the Investment Company Act of 1940, as amended.

Except as specifically set forth herein, Company and Issuer make no other warranties, express or implied, arising out of or in connection with this Agreement, and specifically disclaim any other express or implied warranty. SCM acknowledges and agrees that Company and Issuer does not and cannot guarantee any specific business outcome or result arising in connection with SCM performance hereunder, including, without limitation, any actual or attempted sale of Units hereunder.

4. Representations and Warranties of SCM.

SCM hereby represents and warrants to the Issuer and Company as of the date hereof and as of each date that the Units are sold hereunder; provided, that, to the extent such representations and warranties are given only as of a specified date or dates, SCM only makes such representations and warranties as of such date or dates:

a. This Agreement has been duly authorized, executed and delivered by SCM and constitutes a valid and legally binding obligation of SCM, and SCM has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and the execution, delivery and performance of this Agreement constitutes a valid and binding obligation, enforceable against its terms and does not violate any applicable law, or other contracts or agreements to which it is a party;

b. SCM has the financial resources necessary for the performance of its obligations as contemplated herein;

c. SCM is duly organized, validly existing and in good standing under the laws of its jurisdiction and is in material compliance with all applicable laws, rules and regulations;

d. SCM is (i) duly registered as a broker-dealer under the Securities Exchange Act of 1934, as amended (the "Exchange Act"); (ii) is a member of FINRA in good standing and (iii) is a broker or dealer registered as such in those states and jurisdictions where SCM is required to be registered in order to provide the services contemplated by this Agreement;

e. With respect to its participation and the participation by each Selling Group Member in the offer and sale of the Units (including, without limitation, any resales and transfers of Units), SCM agrees, and will cause each Selling Group Member by written agreement and instruction, to comply with all applicable requirements of (A) the Securities Act, the Exchange Act, the rules and regulations promulgated under the Securities Act and the Exchange Act and all other federal and state rules and regulations applicable to the Private Offering and the sale of the Units; (B) applicable state securities or "blue sky" laws; and (C) the rules set forth in the FINRA rulebook applicable to the Private Offering, which currently consists of rules promulgated by FINRA and the National Association of Securities Dealers;

f. SCM shall obtain written consent from the Issuer prior to executing a Selling Group Member Agreement with a Selling Group Member that deviates in any material respect from the form attached as Exhibit A, and to the extent such Selling Group Member Agreement is consented to and executed, SCM shall provide to the Issuer a copy of such agreement and a summary of such deviations;

g. SCM and its officers, directors, employees and agents maintain in full force and effect all requisite power and authority, all necessary authorizations, approvals, orders, licenses, certificates and permits of and from all governmental regulatory officials and bodies, and all necessary rights, licenses and permits from other parties, to engage in any activities permitted by this Agreement, and the Selling Group Members will agree to perform the marketing activities in accordance with all applicable laws and regulations applicable to it, including those in the jurisdiction of each purchaser of Units;

h. Neither SCM, nor any of its directors, executive officers, other officers participating in the offering of Units, general partners or managing members, or any of the directors, executive officers or other officers participating in the offering of the Units of any such general partner or managing member (each, a "SCM Covered Person" and, collectively, the "SCM Covered Persons"), is subject to a Disqualifying Event except for a Disqualifying Event (i) contemplated by Rule 506(d)(2) of the Securities Act and (ii) a description of which has been furnished in writing to the Issuer prior to the date hereof, or, in the case of a Disqualifying Event occurring after the date hereof, prior to the date of any further offering of Units; provided that SCM will notify the Issuer in writing, prior to any offering of the Units of: (i) any Disqualifying Event relating to any SCM Covered Person not previously disclosed to the Issuer in accordance with this paragraph and (ii) any event that would, with the passage of time, become a Disqualifying Event relating to any SCM Covered Person.

i. SCM shall abide by and comply with, to the extent applicable, and will cause each Selling Group Member by agreement to comply with, (i) the privacy standards and requirements of the Gramm-Leach-Bliley Act of 1999and regulations promulgated thereunder; (ii) the privacy standards and requirements of any other applicable federal or state law and (iii) its own internal privacy policies and procedures, each as may be amended from time to time.

j. SCM is not aware of any person (other than any Issuer Covered Person, SCM Covered Person or Selling Group Member) that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with the sale of any Units, and SCM will not enter into any agreement without the prior written consent of Issuer; provided that if SCM enters into any such agreement, such person(s) will be deemed to be an SCM Covered Person pursuant to this Agreement.

k. Neither SCM nor any person that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with the sale of any the Units has been charged with and, to its knowledge, is not under investigation, review or evaluation with respect to, any material violation of any laws, rules and regulations applicable to it;

l. SCM is not the subject of any pending (or, to its knowledge, threatened) adverse proceedings by any governmental authority the effect of which might impair or adversely affect in any material respect its ability to perform its obligations under this Agreement;

m. (iii) SCM is not a party to, and to its knowledge, it has not been threatened with, any litigation, arbitration or other adverse proceeding the effect of which might impair or adversely affect in any material respect its ability to perform its obligations under this Agreement;

n. With respect to each SCM Covered Person, SCM has established procedures reasonably designed to ensure that SCM receives notice from each such SCM Covered Person of: (i) any Disqualifying Event relating to that SCM Covered Person and (ii) any event that would, with the passage of time, become a Disqualifying Event relating to that SCM Covered Person, in each case, occurring up to and including, the last day on which the Units are offered in the Offering.

5. Covenants of SCM:

SCM covenants and agrees with each of the Issuer and the Company as follows, as of the date hereof and as of each date that the Units are sold hereunder; provided, that, to the extent such covenants are given only as of a specified date or dates, SCM only makes such covenants as of such date or dates:

a. SCM (i) will not take any action that would cause the offering of the Units not to be exempt from the registration requirements under the Securities Act pursuant to Rule 506(c) of Regulation D and applicable state securities laws and regulations; (ii) will not offer or sell any the Units by any means otherwise inconsistent with this Agreement or the PPM; (iii) will not engage in, and the Selling Group Members by agreement will not be permitted to engage in, any marketing or general solicitation activities in any jurisdiction or in any manner in which it is unlawful for it do so; and (iv) will cause each Selling Group Member or their authorized representatives by agreement to offer the Units only to persons whom Selling Group Members or their authorized representatives have a substantive and pre-existing relationship as defined from time to time by the SEC.

b. SCM will at all times conduct any activities in accordance with its FINRA Membership Agreement, as may be amended from time to time.

c. In connection with its activities under this Agreement, SCM shall comply, and will cause each Selling Group Member by written agreement and instruction to comply, in all material respects with applicable (i) federal, state and local securities laws, and any other applicable laws relating to the placement of securities, and (ii) applicable requirements of other governmental, regulatory and self-regulatory authorities and organizations having jurisdiction over the Offering, including those relating to anti-money laundering activities (including the Selling Group Member's collection of required "know your customer" information from purchasers of Units).

d. In connection with its activities hereunder, SCM shall, and will cause each Selling Group Member by written agreement and instruction to, (i) exclusively use the Offering Documents and shall not include or make use of any other document or material, or furnish to any potential investor any other information or make any other representations, written or oral, respecting the Issuer or the offering of Units, and (ii) cause to be delivered to each purchaser of Units, at or prior to the time of any purchase of, or commitment to purchase, the Units, copies of the most recent versions of the Offering Documents as supplied to it by the Issuer.

e. Without the prior written consent of the Issuer, SCM shall not engage in marketing activities with respect to the Units that would require the Issuer, the Units or any of the Offering Documents to be registered, licensed, qualified or approved by any regulatory authority in any jurisdiction.

f. SCM will cause each Selling Group Member by written agreement and instruction to suspend or terminate the offer and sale of the Units in the Offering upon the written request of the Issuer at any time and to resume offering and selling the Units in the Offering upon subsequent written request of the Issuer.

g. SCM shall not hold itself out as representing the Issuer, Company, or any of their affiliates in any way, including in any oral or written communication, or take or fail to take any action, directly or indirectly, which would cause or be reasonably likely to cause a purchaser of Units, or any other person or entity, to believe that SCM (i) is an employee of any of the foregoing entities; (ii) has the ability to accept, or cause the Issuer to accept, subscriptions for Units; or (iii) is rendering or will render investment management or advisory services on behalf of the Issuer or their affiliates.

h. SCM will cause each Selling Group Member by written agreement and instruction to only offer and sell the Units to prospective investors it reasonably believes, on the basis of information obtained from such potential investor concerning such potential investor's investment objectives, other investments, financial situation and needs, and any other information known by the applicable Selling Group Member or an associated person: (A) is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D under the Securities Act and meets the other investor suitability requirements as may be established by the Issuer and set forth in the "Suitability Standards" section of the PPM or the other Offering Documents; (B) has a fair market net worth sufficient to sustain the risks inherent in an investment in the Issuer, including, but not limited to, total loss of investment, lack of liquidity and other risks described in the PPM; and (C) is a person for which an investment in the Units are otherwise suitable.

i. SCM will cause each Selling Group Member by agreement to comply with all rules promulgated by FINRA and the National Association of Securities Dealers applicable to the Offering (collectively, the "FINRA Rules").

j. SCM possesses, and shall maintain, sufficient staff, infrastructure, information technology capability and facilities to provide the services to be provided by SCM pursuant to this Agreement and of the type customarily provided by Managing Dealers of similar investment products, and in addition, SCM will maintain personnel with respect to the Offering comprised of individuals possessing experience and expertise in offerings such as the Offering.

k. SCM will, promptly upon becoming aware of the same, notify the Issuer and the Company of (i) any action, proceeding or investigation threatened or pending before any court or governmental authority, including without limitation the SEC, FINRA, or any state securities regulatory authority, against SCM, an SCM Covered Person, or a Selling Group Member, that claim or allege fraud, violation of the U.S. federal or state securities laws or violation of any other laws, (ii) any deficiency letter or similar report issued to SCM by the SEC, FINRA, or any state securities regulatory authority following a regulatory examination or inquiry, in each case which has had, or is reasonably likely to have, a material adverse effect on the ability of SCM or a Selling Group Member to perform the services contemplated by this Agreement.

6. Term of Agreement.

a. Term. This Agreement shall commence as of the date of execution of this Agreement and will automatically terminate, without the requirement for

further action by any Party, upon the Offering Termination Date.

b. Termination. This Agreement may be terminated by Company with 60 days written notice without cause, and by SCM with 30 days' written notice without cause. Further, either Company or SCM may terminate this Agreement effective upon written notice to the other party in the event:

(i) Materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the breaching Party does not cure such breach within thirty (30) days after receipt of written notice of such breach;

(ii) Becomes insolvent or admits its inability to pay its debts generally as they become due;

(iii) Becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven (7) business days or is not dismissed or vacated within forty-five (45) days after filing;

(iv) Is dissolved or liquidated or takes any corporate action for such purpose.

(v) Makes a general assignment for the benefit of creditors; or

(vi) Has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

c. Issuer and Company Obligations Upon Termination. The Issuer and the Company, upon termination of this Agreement, shall jointly and severally pay to SCM all undisputed but unpaid fees and all undisputed expense reimbursements to which SCM is entitled pursuant to Section 8 of this Agreement up to and including the Termination Date, offset by any Damages. For purposes of this Section 6(b), "Damages" shall mean any amounts owed from SCM to the Issuer or any other Issuer Indemnified Persons arising in accordance with Section 9 herein.

d. Managing Dealer Obligations Upon Termination. SCM, upon termination of this Agreement, shall promptly deposit all funds, if any, in its possession which were received from investors for the sale of Units into the appropriate account designated by the Issuer for the deposit of investor funds, shall promptly deliver to the Issuer all records and documents in its possession which relate to the Offering and SCM's performance of the services hereunder, and shall notify the Selling Group Member of such termination. Upon termination of this Agreement, SCM shall use its commercially reasonable best efforts to cooperate with the Issuer and any other party that may be reasonably necessary to accomplish an orderly transfer to any successor entity of the operation and management of the services SCM provided pursuant to this Agreement.

7. The Issuer agrees that it will furnish to SCM copies of the PPM and all Offering Documents, as they may be amended or supplemented by Issuer, in such quantities as SCM may from time to time reasonably request. If, at any time during the term of this Agreement, an event has occurred as a result of which the PPM and all Offering Documents as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein not misleading, in light of the circumstances under which they were made, the Issuer agrees to notify SCM and upon its request to prepare and furnish without charge to SCM as many copies as SCM may reasonably request of an amended or supplemented PPM and all Offering Documents that will correct such statement or omission.

8. Confidentiality. Each Party ("Receiving Party") shall not disclose, publish, or disseminate the Confidential Information (as defined below) of the other Party ("Disclosing Party") to anyone other than such Receiving Party's employees and contractors with a need to know such Confidential Information, and who are bound by a written agreement to protect the confidentiality of such Confidential Information no less protective than the provisions of this Section, or as required by applicable law. Each party agrees to take the same measures used to protect its own Confidential Information of a similar nature, but in no event less than a reasonable degree of care, to prevent any unauthorized use, disclosure, publication, or dissemination of the other party's Confidential Information. Each Receiving Party agrees to use and disclose the Disclosing Party's Confidential Information for the sole purpose of carrying out such Receiving Party's rights and obligations under this Agreement and shall be responsible and liable for all such usage and/or disclosure. Receiving Party may disclose Confidential Information if and to the extent that such disclosure is required by applicable law, regulation, or court order, provided that, as permitted by applicable law, Receiving Party (i) uses reasonable efforts, at Disclosing Party's expense, to limit the disclosure by means of a protective order or a request for confidential treatment and (ii) provides Disclosing Party a reasonable opportunity to review the disclosure before it is made and to interpose its own objection to the disclosure. In addition to each party's obligations upon the expiration or termination of this Agreement, upon either party's request, the other party shall return all of the requesting party's Confidential Information in its possession or under its control in accordance with the requesting party's directions and shall not thereafter retain any copies of the other party's Confidential Information. As used herein, "Confidential Information" means confidential and proprietary information of a Party, whether in oral, written or other form, which is marked "confidential" or "proprietary," or which should reasonably be deemed to be confidential. Confidential Information does not include information that: (1) is now or subsequently becomes generally available to the public through no fault or breach of the Receiving Party; (2) the Receiving Party can demonstrate to have had rightfully in its possession prior to disclosure by the Disclosing Party; (3) is independently developed by the Receiving Party without the use of any Confidential Information of the Disclosing Party; or (4) the Receiving Party rightfully obtains such information form a third party without a breach of confidentiality.

9. For purposes of this Agreement, "Gross Offering Proceeds" shall mean, with respect to any Closing, the gross offering proceeds from the sale of the Units directly by SCM strictly in accordance with the terms of this Agreement. During the Term of this Agreement, SCM shall be entitled to the following compensation for proper performance of its services hereunder:

a. After each Closing that is consummated during the Term, the Issuer shall pay to SCM by wire transfer the following fees:

i. A selling commission in an amount equal to six percent (6.0%) of the Gross Offering Proceeds from the sale of the Units less any reductions or waivers of Selling Commissions agreed upon by SCM and the Selling Group Member, paid by the Issuer to SCM with offering proceeds ("Selling Commissions"), which SCM will reallow in its entirety to the Selling Group Members;

ii. a marketing reallowance fee in an amount equal to one percent (1.0%) of the Gross Offering Proceeds from the sale of the Units, paid by the Issuer to SCM with offering proceeds (the "Marketing Reallowance Fee"), which SCM will reallow in its entirety to the Selling Group Members; and

iii. a Managing Dealer fee in an amount equal to one and one point four percent (1.4%) of the Gross Offering Proceeds from the sale of the Units (the "Managing Dealer Fee"), paid by the Issuer to SCM with offering proceeds. SCM may, in its sole discretion, reallow a portion of the Managing Dealer Fee to Selling Group Members.

b. The Issuer will not be liable or responsible to any Selling Group Member for direct payment or reallowance of any such selling commissions or fees to such Selling Group Member, it being the sole and exclusive responsibility of SCM for payment or reallowance of any such selling commissions or fees to Selling Group Members. Notwithstanding anything herein to the contrary, SCM shall pay in full all reallowance amounts it is required to reallow to Selling Group Members pursuant to this Agreement.

c. Issuer and Company Expenses. Subject to the limitations set forth below, the Issuer agrees to pay all of its costs and expenses incident to the Offering, whether or not the transactions contemplated hereunder are consummated or this Agreement is terminated, including without limitation expenses, fees and taxes in connection with: (i) the preparation of the PPM and any amendments or supplements thereto, and the printing and furnishing of copies thereof to SCM and to Selling Group Members (including costs of mailing and shipment); (ii) the preparation, issuance and delivery of certificates, if any, for the Units, including any stock or other transfer taxes or duties payable upon the sale of the Units; (iii) all fees and expenses of the Issuer's legal counsel, independent public or certified public accountants and other Companies; (iv) the fees and expenses of any transfer agent or registrar for the Units and any miscellaneous expenses referred to in the PPM; (v) all costs and expenses incident to the travel and accommodation of the Company or Issuer personnel, in making presentations to Selling Group Members and other broker-dealers and financial companies with respect to the Offering; and (vi) the performance of the Issuer's other obligations hereunder. The Company will be responsible for all third-party due diligence costs and expenses.

d. SCM Expenses. During the Term hereof, the Company shall reimburse SCM for the following reasonable, customary, documented and actual out-of-pocket costs and expenses incurred by SCM after the commencement of the Offering in connection with the performance of its obligations under this Agreement (the "PPM Offering Expenses"): (i) customary travel, lodging and meal expenses incurred in connection with the Offering; and costs and expenses of conducting educational conferences and seminars, attending broker-dealer sponsored conferences, industry sponsored conferences, informational seminars and educational conferences sponsored by the Issuer (to the extent SCM is attend such conferences for multiple clients or issuers, SCM will allocated the expenses in a pro rata fashion); (ii) reasonable bona fide due diligence expenses set forth in an itemized and detailed invoice provided to the Issuer (including travel, lodging and meal expenses and other reasonable out-of-pocket expenses incurred by SCM or any Selling Group and their personnel; and (iv) fees of legal counsel to SCM related to the Offering, not to exceed $20,000. Such expenses will be reimbursed to SCM within thirty (30) calendar days of SCM's presentation of a detailed and itemized invoice or receipt or such other documentation as the Company may reasonably deem acceptable for such expenses to the Company. Notwithstanding the foregoing, SCM shall be solely responsible for any tax, duty or other governmental charge imposed in connection with any amount it receives pursuant to this Section 8.

e. Related Party Exclusion. The Company, executive officers of the Company, other affiliates, Managing Dealer, and any "Related Party" may purchase Units without commissions. "Related Party" means those individuals who have prior business and/or personal relationships with our Company and Managing Dealer.

10. Indemnification.

a. The parties hereby agree as follows:

i . SCM Indemnification. The Company and Issuer agree to indemnify, defend and hold harmless SCM, SCM's affiliates, each Selling Group Member and their respective directors, officers, employees, agents and controlling persons (each such person being an "SCM Indemnified Party") from and against any and all losses, damages, liabilities, claims or expenses, (including reasonable attorneys' fees and the reasonable cost of investigation), joint or several, to which such SCM Indemnified Party have or may become subject under any applicable federal or state law or otherwise ("Damages") arising out of or resulting from a third party claim, demand, suit, and/or proceeding ("Claims") to the extent caused by, as incurred by any SCM Indemnified Party (including as incurred in connection with the investigation of, preparation for, and defense of any pending or threatened claim or any action or proceeding arising therefrom), whether or not such SCM Indemnified Party is a party, related to or arising out of the Offering or this Agreement or any matter referred to in this Agreement, including without limitation Damages arising out of or based upon: (i) any (1) untrue statement or alleged untrue statement of a material fact contained in any Offering Documents, including the PPM, or (2) omission or alleged omission of a material fact required to be stated in any Offering Documents, including the PPM, or necessary in order to make the statements therein not misleading; provided, however, that such indemnity shall not apply to any such Damages or Claims arising out of or based upon an untrue statement or alleged untrue statement of material fact or an omission or alleged omission of material fact in any information furnished by or on behalf of SCM or by or on behalf of any Selling Group Member in writing and specifically for inclusion in the Offering Materials; (ii) any material breach by the Issuer or Company of a representation, warranty or covenant made by the Issuer or Company in this Agreement; (iii) any material failure by the Issuer or Company to perform its obligations hereunder or to comply with state or federal securities laws applicable to the Offering (other than as a result of a material breach by SCM of its obligations hereunder); provided, however, that the Issuer and the Company shall not provide any such indemnification to a particular SCM Indemnified Party to the extent that such Damages or Claims resulted from or was caused by such SCM Indemnified Party's fraud, willful misfeasance, gross negligence, which shall have no impact on the Issuer's and Company's obligations herein to each other SCM Indemnified Party.

i i . Issuer Indemnification. SCM agrees to indemnify the Issuer, the Company, any of their respective affiliates, directors, officers, employees, agents and controlling persons (each such person being a "Issuer Indemnified Party") from and against any and all Damages incurred by any Issuer Indemnified Party in connection with the investigation of, preparation for, and defense of any pending or threatened Claim, whether or not such Issuer Indemnified Party is a party, to which such Issuer Indemnified Party may become subject insofar as such Damages arising out of or are based upon: (i) any (1) untrue statement or alleged untrue statement of material fact contained in any Offering Documents or (2) omission or alleged omission of a material fact required to be stated in any Offering Documents or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, that, in each case described in this clause (i) to the extent, but only to the extent, that such untrue statement or alleged untrue statement of material fact or omission or alleged omission of a material fact was made in reliance upon and in conformity with information that was furnished to the Issuer by SCM in writing specifically for use with reference to SCM in the Offering Documents; (ii) any unauthorized verbal or written representations in connection with the Offering made by or on behalf of SCM or its employees, or affiliates in violation of the 1933 Act, or any other applicable federal or state securities laws and regulations, (iii) Managing Dealer's failure to comply with any of the applicable provisions of the 1933 Act, the Exchange Act, Regulation D (Rule 506), applicable requirements and rules of FINRA, or any applicable state laws or regulation, (iv) breach by Managing Dealer of any term, condition, representation, warranty, or covenant of this Agreement or any Selling Group Member Agreement, and (v) the failure by any purchaser of Units to comply with the investor suitability requirements set forth in the PPM, including without limitation the requirement that such purchaser be an "accredited investor" as defined in Rule 501(a) of Regulation D, solely to the extent that the Managing Dealer knew or should have known that such purchaser did not comply with the investor suitability requirements set forth in the Memorandum after the Managing Dealer took reasonable steps to verify that the prospective investor is an "accredited investor", and (v) any negligent action or omission by or on behalf of any SCM Indemnified Parties in connection with the performance of its duties under this Agreement; provided, however, that SCM shall not provide any such indemnification to the extent it has been determined by a court

of competent jurisdiction that such Losses resulted from the Issuer's fraud, willful misfeasance, gross negligence, or material breach of a representation, warranty or covenant herein.

iii. By virtue of entering into a Selling Group Member Agreement, each Selling Group Member severally will agree to indemnify, defend and hold harmless the Issuer, SCM and each of their respective officers, directors, employees, members, managers, partners, affiliates, agents and representatives, and each person, if any, who controls the Issuer or SCM within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any Damages to which any such person may become subject, as more fully described in each Selling Group Member Agreement.

iv. Each SCM Indemnified Party and each Issuer Indemnified Party may be individually referred to herein as an "Indemnified Party" or an "Indemnifying Party," as the context requires.

b. If indemnification is to be sought hereunder by an Indemnified Party, then such Indemnified Party shall promptly notify the Indemnifying Party of the commencement of any litigation, proceeding or other action in respect thereof; provided, however, that the failure to notify the Indemnifying Party shall not relieve the Indemnifying Party from any liability or obligation that it may have under this paragraph or otherwise to such Indemnified Party unless and only to the extent that such failure results in the forfeiture of material rights or defenses by the Indemnified Party and results in actual prejudice to the Indemnifying Party. Following such notification, the Indemnifying Party may elect in writing to assume the defense of such litigation, proceeding or other action (and the costs related thereto) and, upon such election, the Indemnifying Party shall not be liable for any legal costs subsequently incurred by such Indemnified Party (other than costs of investigation or the production of documents or witnesses) unless (i) the Indemnifying Party has failed to provide legal counsel reasonably satisfactory to such Indemnified Party in a timely manner or (ii) such Indemnified Party shall have concluded that (A) the representation of such Indemnified Party by legal counsel selected by the Indemnifying Party would be inappropriate due to actual or potential conflicts of interest or (B) there may be legal defenses available to such Indemnified Party that are different from or additional to those available to the Indemnifying Party or other Indemnified Party represented by such legal counsel. The Indemnifying Party will not, without the Indemnified Party's prior written consent, settle or compromise or consent to the entry of any judgment in any pending or threatened action or claim or related cause of action or portion of such cause of action in respect of which indemnification may be sought hereunder (whether or not the Indemnified Party is a party to such action or claim), unless (A) such compromise or settlement does not include a finding or admission by the Indemnified Person of any violation of any law, rule or regulation or any violation of the rights of any person, (B) each Indemnified Person is unconditionally released from all liability arising therefrom, and (C) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party.

c. EXCECPT FOR EACH PARTY'S INDEMNIFICATION AND CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

d. During the term of this Agreement, SCM shall maintain in full force and effect, with financially sound and reputable insurers.,

11. The respective indemnities, agreements, representations, warranties and other statements of the Issuer, Company, and SCM, as set forth in this Agreement or made by or on behalf of the Issuer, Company, or SCM, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of the Issuer, Company, or SCM, any of SCM's affiliates or any other firm that SCM has partnered with or engaged in connection with the transactions contemplated hereby or any controlling person of SCM or any officer, partner, employee or director or controlling person of the Company or Issuer, any affiliate or partner firm, and shall survive delivery of and payment for the Units and termination of this Agreement.

12. Each of the Issuer and Company hereby agrees that by executing this Agreement, the fees earned and expenses incurred through the date of termination of this Agreement, as provided for under Section 8 shall survive any such termination and remain the full responsibility of the Company, as the case may be pursuant to Section 8, subject to the provisions of Section 8(c).

13. The provisions of Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, 21 and 22 and any other provision that by its nature should survive shall survive any expiration or termination of this Agreement.

14. SCM shall not assign, transfer, delegate or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Company and Issuer in each instance. Any purported assignment or delegation in violation of this Sectin 13 shall be null and void. No assignment or delegation shall relieve SCM of any of its obligations under this Agreement. This Agreement shall be binding upon, and inure solely to the benefit of, SCM, the Company, the Issuer, and, to the extent provided in Section 9 hereof, the Indemnified Parties and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any of the Units offered in the Offering shall be deemed a successor or assign by reason merely of such purchase.

15. Except as required by law or in any legal proceeding to enforce the terms of this Agreement, the terms of this Agreement (other than the fact that SCM has been engaged by the Issuer in connection with the Offering) shall not be disclosed by either party to this Agreement to any third party (not including any officers, directors, employees, shareholders, agents, attorneys, accountants, broker-dealers in the selling group, or lenders who need to know such information in connection with the Offering or who have the contractual right to review such information) without the prior written consent of both parties to this Agreement. Prior to any permitted disclosure described above, each Party shall inform all third parties to be provided with such information of the confidential nature of such information, and shall use reasonable commercial efforts to restrict the further disclosure of such information by such third parties. Furthermore, if a Party is required to deliver a copy or any written summary of this letter to any such third party, it will obtain the prior written agreement of such party to keep all such information confidential. Notwithstanding the foregoing, the Issuer is hereby authorized to disclose the terms of this Agreement to broker-dealers in the Selling Group and prospective investors to whom the Units are offered in the PPM or otherwise.

16. The Issuer agrees that communication with investors in the Issuer is an important priority. To that end, the Issuer agrees to prepare and distribute to investors in the Issuer, within 90 days after the end of each fiscal quarter, a quarterly investor update that summarizes the performance of the Issuer during the preceding 90 days. The

Issuer agrees to keep a database of investor contact information and to distribute these updates (and other important investor communications) electronically via investor portal, email and/or via U.S. mail when appropriate. The Issuer also agrees to distribute a copy of all quarterly investor updates, the annual audit, and any other information provided to investors to all broker-dealers in the selling group.

17. SCM, on the one hand, and the Issuer and Company, on the other hand, shall be deemed to be an independent contractor with respect to the other and, none of SCM on the one hand, and the Issuer and Company, on the other hand, shall have authority to act for or represent the other. Nothing contained herein shall create a partnership, joint venture, association, syndicate, unincorporated business, or other separate entity, nor shall this Agreement be deemed to confer on any party any express, implied, or apparent authority to incur any obligation or liability on behalf of any other party.

18. This Agreement and any matters arising out of or relating in any way whatsoever to this Agreement (whether in contract, tort or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida applicable to contracts made and delivered entirely within the State of Florida.

19. Waiver of Jury Trial; Consent to Jurisdiction; Arbitration; Attorneys' Fees

i. EACH OF THE PARTIES HERETO WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) RELATED TO OR ARISING OUT OF THIS AGREEMENT. The Parties to this Agreement agree that any action or proceeding arising directly, indirectly, or otherwise in connection with, out of, related to, or from this Agreement, any breach hereof, or any transaction covered hereby, shall be resolved within Hillsborough County, City of Tampa and State of Florida. Accordingly, the Parties consent and submit to the jurisdiction of the federal and state courts and any applicable arbitral body located within Hillsborough County, City of Tampa and State of Florida. The Parties further agree that any such action or proceeding brought by either Party to enforce any right, assert any claim, or obtain any relief whatsoever in connection with this Agreement shall be brought by such Party exclusively in the federal or state courts, or appropriate arbitral body, located within Hillsborough County, City of Tampa and State of Florida.

ii. Subject to applicable law, any dispute, controversy or claim arising out of or relating to this Agreement that cannot be settled through good faith negotiation shall be settled by arbitration in accordance with the then current American Arbitration Association Commercial Arbitration Rules by a sole arbitrator agreed upon by the Parties (or, if the Parties are unable to so agree, such arbitrator shall be selected as otherwise provided in such rules). The arbitration shall be governed by the United States Arbitration Act, and judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. The place of arbitration shall be the city of Tampa, Florida. The expenses of arbitration shall be borne by the Party that does not substantially prevail on the matters at issue, provided that if no Party substantially prevails on the matters at issue, the expenses of arbitration shall be shared equally between the parties. The Parties hereby irrevocably agree to settle or resolve any dispute under this agreement by arbitration as described above.

iii. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding (and any additional proceeding for the enforcement of a judgment) in addition to any other relief to which it or they may be entitled.

20. This Agreement and the Sponsor Consulting Agreement constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings. This agreement may not be amended except by written instrument signed by both Parties.

21. For purposes of this Agreement, the term "affiliate" shall have the meanings ascribed thereunder under Rule 144 promulgated under the Securities Act.

22. Any notice, approval, request, authorization, direction or other communication required or permitted under this Agreement shall be in writing and shall be deemed given (a) when delivered personally or via commercial messenger, (b) on the first (1st) business day after deposit with a nationally recognized overnight delivery service, (c) on the fifth (5th) business day after deposit in the United States mail, properly addressed and stamped with the required postage, registered or certified mail, return receipt requested, or (d) when transmitted by facsimile or email, provided confirmation of receipt is received by sender and such notice is sent by an additional method provided hereunder, in each case to the intended recipient at the address set forth below.

If to SCM:
Skyway Capital Markets
100 North Tampa Street, Suite 3550
Tampa, Florida 33602
Attention: Russell L. Hunt
E-mail: russ.hunt@skywaycapitalmarkets.com

with a copy to (which shall not constitute notice under this Agreement):
Johnson, Pope, Bokor, Ruppel & Burns, LLP
911 Chestnut Street
Clearwater, FL 33756
Attention: Mike Cronin, Esq.
E-mail: mikec@jpfirm.com

If to the Company Issuer:
CaliberCos
8901 E. Mountain View Rd., Suite 150
Scottsdale, AZ 85258
Attention: John C. Loeffler II
E-mail: chris.loeffler@caliberco.com

with a copy to (which shall not constitute notice under this Agreement):
Snell & Wilmer, L.L.P.
One East Washington Street, Suite 2700
Phoenix, AZ 85004
Attention: Byron Sarhangian

Email: bsarhangian@swlaw.com

Any Party may change its address specified above by giving the other Parties notice of such change in accordance with this Section 21.

23. Third Party Beneficiaries. Except for the persons and entities not a party to this Agreement referred to as Indemnified Parties in Section 9, there shall be no third party beneficiaries of this Agreement, and no provision of this Agreement is intended to be for the benefit of any person or entity not a party to this Agreement, and no third party shall be deemed to be a beneficiary of any provision of this Agreement. Except for the persons and entities not a party to this Agreement referred to as Indemnified Parties in Section 9, no third party shall by virtue of any provision of this Agreement have a right of action or an enforceable remedy against any Party to this Agreement. For the avoidance of doubt, each Selling Group Member is a third-party beneficiary with respect to this Agreement and may enforce its rights, to the extent set forth herein, against any Party to this Agreement.

24. Waiver; Severability. No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

25. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Notwithstanding anything to the contrary in Agreement, a signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Remainder of page intentionally left blank]

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

Skyway Capital Markets, LLC

By: _____
Name: Russell L. Hunt
Title: CEO

CaliberCos

By: _____
Name: John C. Loeffler II
Title: CEO

[Issuer]

By: _____
Name: John C. Loeffler II
Title: General Partner

Exhibit Intentionally Omitted

Exhibit 10.15

SPONSOR CONSULTING AGREEMENT

This Program Launch Advisory Agreement (this "Agreement"), dated as of December 1, 2022 ("Effective Date"), is entered into by and between Skyway Capital Markets, LLC, a Florida limited liability company ("SCM" or the "Service Provider") and CaliberCos Inc. (the "Issuer" or "Company"). The Issuer, Managing Dealer and Company are collectively referred to herein as "Parties" and each as a "Party."

Issuer and Company hereby appoint Service Provider to provide, at Issuer's and Company's prior request, the services set forth in this Section 2.01 to prepare the Issuer and Company to launch a new investment offering based on the terms and conditions set forth in this Agreement, and Service Provider hereby accepts such appointment. Service Provider shall, for all purposes herein provided, be deemed to be an independent contractor. Concurrently herewith, SCM and Company are entering into that certain Managing Dealer Agreement whereby SCM has agreed to assist Company in connection with a private placement offering ("Managing Dealer Agreement").

Services Include: SCM provide the following services on a best-efforts basis:

1. Sponsor Orientation:
    a. Channels of distribution
    b. Product formation process
    c. Due Diligence review
    d. Marketing and branding
    e. Offering life cycle
        i. Launch
        ii. Offering period
        iii. Close out
        iv. Post close
        v. Serial offerings

2. Sponsor Market Preparation review
    a. Prior performance review
    b. Litigation
    c. Bad Actors
    d. Regulatory, SEC, IRS, federal, state etc.
    e. Competitive review

3. Product development consulting
    a. Offering Terms, size, duration, etc.
    b. Fee options and recommendations
    c. Entity structure
    d. Features and benefits, rates, liquidity, payment frequency, etc.
    e. Risk disclosure

    f. Plan of distribution
    g. Tax reporting

4. Legal - Work with sponsor / issuer to identify the proper legal counsel based on industry, product structure, exit strategy and investor channel.

5. Document Review
    a. PPM / Prospectus
    b. Operating agreements
    c. Advisory agreements
    d. Vendor agreements
    e. Management agreements
    f. Industry report
    g. Research articles
    h. Due Diligence documentation
    i. Sponsor operating procedures
    j. Other documents critical to the sponsor and offering
    k. Marketing Materials

6. Due Diligence
    a. Review and recommend third party due diligence provider
    b. Coordinate sponsor and offering DD contracts
    c. Identify any pending DD presentation opportunities
    d. Assist in the establishment of a data room
    e. Partner with sponsor in third party report process
    f. Third Party DD report distribution
    g. BD and RIA Due Diligence and Investment Committee Review

7. Transaction and Operations:
    a. Custodian and Clearing firm set up
        i. Complete the necessary forms to get the offering provided on the largest Clearing firm, Pershing, NFS, RBC, Schwab, TD Ameritrade, etc.
        ii. Independent custodians, NuView, Kingdom Trust, Millennium Trust, etc.
    b. Conduct a search process and recommendation for the fund's transferagent
        i. Coordinated contract set up
        ii. Onboard fund at transfer agent
            • SCM has already completed this process, recommending Great Lakes and TSE has agreed to Great Lakes Fund Solutions being the transfer agent.

c. Conduct a search process and recommendation for the fund's escrowagent

i. Coordinated contract set up
ii. Onboard fund with escrow agent
- SCM has already completed this process and recommended that UMB be the escrow agent.

d. Work with, coordinate with, and provide administrative assistance to the Fund'sclearing firm and/or Depository Trust Company as needed.
e. Provide or negotiate with, engage with, and/or work with vendors who provide issuer support to the Fund for the following:
i. shareholder services
ii. payment processing (for shareholder dividends or otherwise)
iii. tax reporting services
iv. proxy voting services; and alike

f. Establishment of trading and closing procedures
g. Skyway system integration
h. Investor forms Creation:
i. Subscription agreement
ii. Investor accreditation verification
iii. Purchase agreement
iv. Distribution Instructions
v. Change of ownership
vi. Change of address
vii. Additional Investment
viii. Redemption / Tender
ix. Transfer on Death
x. Change of Advisor / Broker Dealer

i. Arrange for the provision of data and customary information to interested parties such as custodians, trust departments, third-party reporting services, and registered investment advisor servicing platforms relating to the Fund

8. Sponsor reporting
a. Sales
b. Broker Dealers
c. Advisor
d. Investors

9. Marketing support from the sales initiative all the way to investor relations communications from the Fund, including but not limited to:

a. copy writing
b. creative management
c. project management
d. print production management
e. website assistance
f. graphic design
g. press release assistance
h. public relations activities
i. presentation assistance; and
j. dissemination of such communications
k. FINRA advertising review
l. assist the Fund in the development of information technology to streamline responding to shareholder inquiries

10. National Accounts Rollout
a. Introduce sponsor and offering to targeted BD and RIA firms through
b. Calls
c. Face to face meetings
d. Road shows
e. Webinars
f. Industry meetings
g. Due diligence HQ visits
h. And alike

11. Other such advisory services as agreed to in writing by the Issuer and Service Provider.

1. Representations and Warranties of the Issuer.

The Issuer hereby represents and warrants to SCM:

a. This Agreement has been duly authorized, executed and delivered by the Issuer and constitutes a valid and legally binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, except as the same may be subject to the effects of (i) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws now or hereafter in effect relating to or affecting creditors' rights generally and (ii) general principles of equity (regardless of whether considered in a proceeding at law or in equity).

b. The Issuer has obtained all necessary approvals, consents, licenses and registrations from any governmental entity or any other person or entity necessary to perform its obligations hereunder and shall maintain all such approvals, consents and registrations in full force and effect during the term of this Agreement and the performance of such obligations will not contravene or result in a breach of any provision of its certificate of incorporation, by-laws or other organizational document or any agreement, instrument, order, law or regulation binding upon it.

c. The Issuer has complied and will comply in all material respects with all applicable federal and state securities laws in connection with any offering.

2. Representations and Warranties of SCM.

SCM hereby represents and warrants to the Issuer and Company:

a. SCM has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and the execution, delivery and performance of this Agreement constitutes a valid and binding obligation, enforceable against its terms and does not violate any applicable law, or other contracts or agreements to which it is a party.

b. SCM has the financial resources necessary for the performance of its obligations as contemplated herein.

c. SCM is duly organized, validly existing and in good standing under the laws of its jurisdiction and is in material compliance with all laws, rules and regulations applicable to it.

d. SCM is (i) duly registered as a broker-dealer under the Securities Exchange Act of 1934, as amended (the "Exchange Act"); (ii) is a member of FINRA in good standing and (iii) is a broker or dealer registered as such in those states and jurisdictions where SCM is required to be registered in order to provide the services contemplated by this Agreement.

e. SCM and its officers, directors, employees and agents maintain in full force and effect all requisite power and authority, all necessary authorizations, approvals, orders, licenses, certificates and permits of and from all governmental regulatory officials and bodies, and all necessary rights, licenses and permits from other parties, to engage in any activities permitted by this Agreement, and shall perform all obligations hereunder in compliance with all applicable laws.

3. Term of Agreement.

a. Term. This Agreement shall commence as of the Effective Date and will automatically terminate December 31, 2023, without the requirement for further action by any Party, however, that this Agreement may be terminated by SCM, the Issuer or Company with 30 days written notice with or without cause.

b . Issuer and Sponsor Obligations Upon Termination. The Issuer and the Company, upon termination of this Agreement, shall jointly and severally pay to SCM all undisputed but unpaid fees and all undisputed expense reimbursements to which SCM is entitled pursuant to Section 8 of this Agreement up to and as of the Termination Date, offset by any Damages. For purposes of this Section 6(b), "Damages" shall mean any amounts owed from SCM to the Issuer or any other Issuer Indemnified Persons arising in accordance with Section 9 herein.

c . Service Provider Obligations Upon Termination. SCM, upon termination of this Agreement, shall promptly deliver to the Issuer all records and documents in its possession which relate to the services. Upon termination of this Agreement, SCM shall use its commercially reasonable best efforts to cooperate with the Issuer and any other party that may be reasonably necessary to accomplish an orderly transfer to any successor entity of the operation and management of the services SCM provided pursuant to this Agreement.

d. The execution of this agreement does not mean that SCM will be the managing broker or distributor for the Issuer or Company. That arrangement is established through the Managing Dealer Agreement.

4. Compensation For Purposes of this Agreement

The Monthly Service Fee is paid as consideration for the covered Services described in Section 1. The Monthly Service Fee is $20,000.00 and is payable monthly with the first payment due upon signing this agreement and for the next six months.

a) Payment Schedule

All undisputed amounts due and payable under this Agreement, including all Exhibits thereto, shall be due and payable to SCM by the Issuer within five (5) calendar days of request for payment or reimbursement by SCM, except for any fees or expenses that are subject to good faith dispute. In the event of such a dispute, only that portion of the fee or expense subject to the good faith dispute may be withheld. The Issuer will endeavor to notify SCM in writing within thirty (30) calendar days following the receipt of each invoice if the Issuer is disputing any amounts in good faith together with a statement specifying the portion of fees or expenses being withheld and a reasonably detailed explanation of the reasons for withholding such fees or expenses. If the Issuer does not provide such notice of dispute within the required time, the invoice will be deemed accepted. Whenever the Issuer withholds payment of a disputed portion of any invoice, the Parties will negotiate expeditiously and in good faith to resolve any such disputes within thirty (30) calendar days of the original notice of dispute. The Issuer shall settle such disputed amounts within ten (10) calendar days of the day on which the Parties agree on the amount to be paid by the payment of the agreed amount. If no agreement is reached, such disputed amounts shall be settled as may be required by law or legal process pursuant to the provisions of this Agreement.

b) Late Payments

If any undisputed amount in an invoice of SCM (for fees or reimbursable expenses) is not paid when due, or if any disputed amount in an invoice of SCM (for fees or reimbursable expenses) is not paid when due and is subsequently determined to have been due, the Issuer shall pay SCM interest thereon (from due date to the date of payment) at a per annum rate equal to one percent (1.0%) plus the Prime Rate (that is, the base rate on corporate loans posted by large domestic banks) as published by *The Wall Street Journal* (or, in the event that such rate is not so published, a reasonably equivalent published rate selected by SCM) on the first day of the publication during the

month when such amount was due. Notwithstanding any other provision hereof, such interest rate shall be no greater than permitted under applicable provisions of law.

c) Additional Services

From time to time the Issuer may request that SCM provide services to it beyond those Services contemplated in this Agreement ("Additional Services"). If SCM, in its sole discretion, determines that contemplated Additional Services may require employees of SCM to spend in excess of 20 work hours dedicated to such Additional Services, SCM and the Issuer shall negotiate a separate statement of work and fee schedule regarding such Additional Services. For the avoidance of doubt, no Additional Services shall include any services that constitute or are deemed transfer agent services, or that would otherwise require SCM to register as a transfer agent under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

2) Issuer and Company Expenses. Subject to the limitations set forth below, the Issuer agrees to pay all of its costs and expenses incident to any offering, whether or not the transactions contemplated hereunder are consummated or this Agreement is terminated, including without limitation expenses, fees and taxes in connection with: (i) the preparation of any PPM and any amendments or supplements thereto, and the printing and furnishing of copies thereof to SCM and to any selling group members (including costs of mailing and shipment); (ii) all fees and expenses of the Issuer's legal counsel, independent public or certified public accountants and other Company's; (iii) the fees and expenses of any transfer agent or registrar for the Units and any miscellaneous expenses referred to in the PPM; (iv) all costs and expenses incident to the travel and accommodation of the Company or Issuer personnel, in making presentations to any selling group members and other broker-dealers and financial companies with respect to any offering; and (v) the performance of the Issuer's other obligations hereunder. The Company will be responsible for all third-party due diligence costs and expenses.

3) SCM Expenses. During the Term hereof, the Company shall reimburse SCM in accordance with the Managing Dealer Agreement.

5. Confidentiality. Each Party ("Receiving Party") shall not disclose, publish, or disseminate the Confidential Information (as defined below) of the other Party ("Disclosing Party") to anyone other than such Receiving Party's employees and contractors with a need to know such Confidential Information, and who are bound by a written agreement to protect the confidentiality of such Confidential Information no less protective than the provisions of this Section, or as required by applicable law. Each party agrees to take the same measures used to protect its own Confidential Information of a similar nature, but in no event less than a reasonable degree of care, to prevent any unauthorized use, disclosure, publication, or dissemination of the other party's Confidential Information. Each Receiving Party agrees to use and disclose the Disclosing Party's Confidential Information for the sole purpose of carrying out such Receiving Party's rights and obligations under this Agreement and shall be responsible and liable for all such usage and/or disclosure. Receiving Party may disclose Confidential Information if and to the extent that such disclosure is required by applicable law, regulation, or court order, provided that, as permitted by applicable law, Receiving Party (i) uses reasonable efforts, at Disclosing Party's expense, to limit the disclosure by means of a protective order or a request for confidential treatment and (ii) provides Disclosing Party a reasonable opportunity to review the disclosure before it is made and to interpose its own objection to the disclosure. In addition to each party's obligations upon the expiration or termination of this Agreement, upon either party's request, the other party shall return all of the requesting party's Confidential Information in its possession or under its control in accordance with the requesting party's directions and shall not thereafter retain any copies of the other party's Confidential Information. As used herein, "Confidential Information" means confidential and proprietary information of a Party, whether in oral, written or other form, which is marked "confidential" or "proprietary," or which should reasonably be deemed to be confidential. Confidential Information does not include information that: (1) is now or subsequently becomes generally available to the public through no fault or breach of the Receiving Party; (2) the Receiving Party can demonstrate to have had rightfully in its possession prior to disclosure by the Disclosing Party; (3) is independently developed by the Receiving Party without the use of any Confidential Information of the Disclosing Party; or (4) the Receiving Party rightfully obtains such information form a third party without a breach of confidentiality.

6. Indemnification.

a. The parties hereby agree as follows:

i. SCM Indemnification. The Company and Issuer agree to indemnify, defend and hold harmless SCM, SCM's affiliates, each Selling Group Member and their respective directors, officers, employees, agents and controlling persons (each such person being an "SCM Indemnified Party") from and against any and all losses, damages, liabilities, or expenses, (including reasonable attorneys' fees and the reasonable cost of investigation), joint or several, to which such SCM Indemnified Party have or may become subject under any applicable federal or state law or otherwise ("Damages") arising out of or resulting from a third party claim, demand, suit, and/or proceeding ("Claims") to the extent caused by, as incurred by any SCM Indemnified Party (including as incurred in connection with the investigation of, preparation for, and defense of any pending or threatened claim or any action or proceeding arising therefrom), whether or not such SCM Indemnified Party is a party, related to or arising out of the Offering or this Agreement or any matter referred to in this Agreement, including without limitation Damages arising out of or based upon: (i) any (1) untrue statement or alleged untrue statement of a material fact contained in any offering documents, including any PPM, or (2) omission or alleged omission of a material fact required to be stated in any offering documents, including the PPM, or necessary in order to make the statements therein not misleading; provided, however, that such indemnity shall not apply to any such Damages or Claims arising out of or based upon an untrue statement or alleged untrue statement of material fact or an omission or alleged omission of material fact in any information furnished by or on behalf of SCM or by or on behalf of any Selling Group Member in writing and specifically for inclusion in the Offering Materials; (ii) any material breach by the Issuer or Company of a representation, warranty or covenant made by the Issuer or Company in this Agreement; or (iii) any material failure by the Issuer or Company to perform its obligations hereunder or to comply with state or federal securities laws applicable to the Offering (other than as a result of a material breach by SCM of its obligations hereunder); provided, however, that the Issuer and the Company shall not provide any such indemnification to a particular SCM Indemnified Party to the extent it has been determined by a court of competent jurisdiction that such Damages or Claims resulted from such SCM Indemnified Party's fraud, willful misfeasance, gross negligence.

ii. Issuer Indemnification. SCM agrees to indemnify the Issuer, the Company, any of their respective affiliates, directors, officers, employees, agents and controlling persons (each such person being a "Issuer Indemnified Party") from and against any and all Damages incurred by any Issuer Indemnified Party in connection with the investigation of, preparation for, and defense of any pending or threatened Claim, whether or not such Issuer Indemnified Party is a party, to which such Issuer Indemnified Party may become subject insofar as such Damages arising out of or are based upon: (i) any (1) untrue statement or alleged untrue statement of material fact contained in any Offering Documents or (2) omission or alleged omission of a material fact required to be stated in any Offering Documents or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, that, in each case described in this clause (i) to the extent, but only to the extent, that such untrue statement or alleged untrue statement of material fact or omission or alleged omission of a material fact was made in reliance upon and in conformity with information that was furnished to the Issuer by SCM in writing specifically for use with reference to SCM in the Offering Documents; (ii) any material breach by SCM of applicable securities laws or regulations (other than as a result of a material breach by the Issuer of its obligations hereunder); (iii) any breach by SCM of any term, condition, representation, warranty, or covenant of this Agreement; or (iv) any negligent action or omission by or on behalf of any SCM Indemnified Parties in connection with the performance of its duties under this Agreement; provided, however, that SCM shall not provide any such indemnification to the extent it has been determined by a court of competent jurisdiction that such Losses resulted from the Issuer's fraud, willful misfeasance, gross negligence, or material breach of a representation, warranty

or covenant herein.

b. If indemnification is to be sought hereunder by an Indemnified Party, then such Indemnified Party shall promptly notify the Indemnifying Party of the commencement of any litigation, proceeding or other action in respect thereof; provided, however, that the failure to notify the Indemnifying Party shall not relieve the Indemnifying Party from any liability or obligation that it may have under this paragraph or otherwise to such Indemnified Party unless and only to the extent that such failure results in the forfeiture of material rights or defenses by the Indemnified Party and results in actual prejudice to the Indemnifying Party. Following such notification, the Indemnifying Party may elect in writing to assume the defense of such litigation, proceeding or other action (and the costs related thereto) and, upon such election, the Indemnifying Party shall not be liable for any legal costs subsequently incurred by such Indemnified Party (other than costs of investigation or the production of documents or witnesses) unless (i) the Indemnifying Party has failed to provide legal counsel reasonably satisfactory to such Indemnified Party in a timely manner or (ii) such Indemnified Party shall have concluded that (A) the representation of such Indemnified Party by legal counsel selected by the Indemnifying Party would be inappropriate due to actual or potential conflicts of interest or (B) there may be legal defenses available to such Indemnified Party that are different from or additional to those available to the Indemnifying Party or other Indemnified Party represented by such legal counsel. The Indemnifying Party will not, without the Indemnified Party's prior written consent, settle or compromise or consent to the entry of any judgment in any pending or threatened action or claim or related cause of action or portion of such cause of action in respect of which indemnification may be sought hereunder (whether or not the Indemnified Party is a party to such action or claim), unless (A) such compromise or settlement does not include a finding or admission by the Indemnified Person of any violation of any law, rule or regulation or any violation of the rights of any person, (B) each Indemnified Person is unconditionally released from all liability arising therefrom, and (C) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party.

c. EXCECPT FOR EACH PARTY'S INDEMNIFICATION AND CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

7. The respective indemnities, agreements, representations, warranties and other statements of the Issuer, Company, and SCM, as set forth in this Agreement or made by or on behalf of the Issuer, Company, or SCM, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of the Issuer, Company, or SCM, any of SCM's affiliates or any other firm that SCM has partnered with or engaged in connection with the transactions contemplated hereby or any controlling person of SCM or any officer, partner, employee or director or controlling person of the Company or Issuer, any affiliate or partner firm, and shall survive delivery of and payment and termination of this Agreement.

8. Each of the Issuer and Company hereby agrees that by executing this Agreement, the fees earned and expenses incurred through the date of termination of this Agreement, as provided for under Section 4 shall survive any such termination and remain the full responsibility of the Company, as the case may be.

9. The provisions of Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, 21 and 22 and any other provision that by its nature should survive shall survive any expiration or termination of this Agreement.

10. SCM shall not assign, transfer, delegate, or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Company and Issuer in each instance. Any purported assignment or delegation in violation of this Section 13 shall be null and void. No assignment or delegation shall relieve SCM of any of its obligations under this Agreement. This Agreement shall be binding upon, and inure solely to the benefit of, SCM, the Company, the Issuer, and, to the extent provided in Section 9 hereof, the Indemnified Parties and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement.

11. Except as required by law or in any legal proceeding to enforce the terms of this Agreement, the terms of this Agreement (other than the fact that SCM has been engaged by the Issuer in connection with the Offering) shall not be disclosed by either party to this Agreement to any third party (not including any officers, directors, employees, shareholders, agents, attorneys, accountants, broker-dealers in the selling group, or lenders who need to know such information in connection with the Offering or who have the contractual right to review such information) without the prior written consent of both parties to this Agreement. Prior to any permitted disclosure described above, each Party shall inform all third parties to be provided with such information of the confidential nature of such information, and shall use reasonable commercial efforts to restrict the further disclosure of such information by such third parties. Furthermore, if a Party is required to deliver a copy or any written summary of this letter to any such third party, it will obtain the prior written agreement of such party to keep all such information confidential. Notwithstanding the foregoing, the Issuer is hereby authorized to disclose the terms of this Agreement to broker-dealers in the Selling Group and prospective investors to whom the Units are offered in the PPM or otherwise.

12. SCM, on the one hand, and the Issuer and Company, on the other hand, shall be deemed to be an independent contractor with respect to the other and, none of SCM on the one hand, and the Issuer and Company, on the other hand, shall have authority to act for or represent the other. Nothing contained herein shall create a partnership, joint venture, association, syndicate, unincorporated business, or other separate entity, nor shall this Agreement be deemed to confer on any party any express, implied, or apparent authority to incur any obligation or liability on behalf of any other party.

13. This Agreement and any matters arising out of or relating in any way whatsoever to this Agreement (whether in contract, tort or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida applicable to contracts made and delivered entirely within the State of Florida.

14. Waiver of Jury Trial; Consent to Jurisdiction; Arbitration; Attorneys' Fees

i. EACH OF THE PARTIES HERETO WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) RELATED TO OR ARISING OUT OF THIS AGREEMENT. The Parties to this Agreement agree that any action or proceeding arising directly, indirectly, or otherwise in connection with, out of, related to, or from this Agreement, any breach hereof, or any transaction covered hereby, shall be resolved within Hillsborough County, City of Tampa and State of Florida. Accordingly, the Parties consent and submit to the jurisdiction of the federal and state courts and any applicable arbitral body located within Hillsborough County, City of Tampa and State of Florida. The Parties further agree that any such action or proceeding brought by either Party to enforce any right, assert any

claim, or obtain any relief whatsoever in connection with this Agreement shall be brought by such Party exclusively in the federal or state courts, or appropriate arbitral body, located within Hillsborough County, City of Tampa and State of Florida.

ii. Subject to applicable law, any dispute, controversy or claim arising out of or relating to this Agreement that cannot be settled through good faith negotiation shall be settled by arbitration in accordance with the then current American Arbitration Association Commercial Arbitration Rules by a sole arbitrator agreed upon by the Parties (or, if the Parties are unable to so agree, such arbitrator shall be selected as otherwise provided in such rules). The arbitration shall be governed by the United States Arbitration Act, and judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. The place of arbitration shall be the city of Tampa, Florida. The expenses of arbitration shall be borne by the Party that does not substantially prevail on the matters at issue, provided that if no Party substantially prevails on the matters at issue, the expenses of arbitration shall be shared equally between the parties. The Parties hereby irrevocably agree to settle or resolve any dispute under this agreement by arbitration as described above.

iii. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding (and any additional proceeding for the enforcement of a judgment) in addition to any other relief to which it or they may be entitled.

15. This Agreement and the Managing Dealer Agreement constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings. This agreement may not be amended except by written instrument signed by both Parties.

16. For purposes of this Agreement, the term "affiliate" shall have the meanings ascribed thereunder under Rule 144 promulgated under the Securities Act.

17. Any notice, approval, request, authorization, direction or other communication required or permitted under this Agreement shall be in writing and shall be deemed given (a) when delivered personally or via commercial messenger, (b) on the first (1st) business day after deposit with a nationally recognized overnight delivery service, (c) on the fifth (5th) business day after deposit in the United States mail, properly addressed and stamped with the required postage, registered or certified mail, return receipt requested, or (d) when transmitted by facsimile or email, provided confirmation of receipt is received by sender and such notice is sent by an additional method provided hereunder, in each case to the intended recipient at the address set forth below.

If to SCM:
Skyway Capital Markets
100 North Tampa Street, Suite 3550
Tampa, Florida 33602
Attention: Russell L. Hunt
E-mail: russ.hunt@skywaycapitalmarkets.com

with a copy to (which shall not constitute notice under this Agreement):
Johnson, Pope, Bokor, Ruppel & Burns, LLP
911 Chestnut Street
Clearwater, FL 33756
Attention: Mike Cronin, Esq.
E-mail: mikec@jpfirm.com

If to the Company Issuer:
CaliberCos
8901 E. Mountain View Rd., Suite 150 Scottsdale, AZ 85258
Attention: John C. Loeffler II
E-mail: chris.loeffler@caliberco.com

with a copy to (which shall not constitute notice under this Agreement): Snell & Wilmer, L.L.P.
One East Washington Street, Suite 2700
Phoenix, AZ 85004
Attention: Byron Sarhangian
Email: bsarhangian@swlaw.com

Any Party may change its address specified above by giving the other Parties notice of such change in accordance with this Section 21.

18. Third Party Beneficiaries. Except for the persons and entities not a party to this Agreement referred to as Indemnified Parties in Section 9, there shall be no third party beneficiaries of this Agreement, and no provision of this Agreement is intended to be for the benefit of any person or entity not a party to this Agreement, and no third party shall be deemed to be a beneficiary of any provision of this Agreement. Except for the persons and entities not a party to this Agreement referred to as Indemnified Parties in Section 9, no third party shall by virtue of any provision of this Agreement have a right of action or an enforceable remedy against any Party to this Agreement. For the avoidance of doubt, each Selling Group Member is a third-party beneficiary with respect to this Agreement and may enforce its rights, to the extent set forth herein, against any Party to this Agreement.

19. Waiver; Severability. No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

20. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Notwithstanding anything to the contrary in Agreement, a signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Remainder of page intentionally left blank]

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

Skyway Capital Markets, LLC

By: /s/ Russell L. Hunt
Name: Russell L. Hunt
Title: CEO

CaliberCos Inc

By: /s/ John C. Loeffler II
Name: John C. Loeffler II
Title: CEO