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FAIRWAY
AMERICA

SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

OF

FAIRWAY VIVO GP FUND LLC

Dated: March 12, 2021

THE LIMITED LIABILITY COMPANY INTERESTS OF FAIRWAY VIVO GP FUND LLC HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), THE SECURITIES LAWS OF ANY STATE OR ANY OTHER APPLICABLE U.S. OR NON-U.S. SECURITIES LAWS, IN EACH CASE IN RELIANCE UPON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND SUCH LAWS. THE LIMITED LIABILITY COMPANY INTERESTS MAY BE ACQUIRED FOR INVESTMENT ONLY, AND NEITHER THE INTERESTS NOR ANY PART THEREOF MAY BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED OR TRANSFERRED AT ANY TIME EXCEPT IN COMPLIANCE WITH (I) THE SECURITIES ACT, ANY APPLICABLE STATE SECURITIES LAWS AND ANY OTHER APPLICABLE SECURITIES LAWS; (II) THE TERMS AND CONDITIONS OF THIS LIMITED LIABILITY COMPANY AGREEMENT; AND (III) THE TERMS AND CONDITIONS OF THE SUBSCRIPTION AGREEMENT AND THE INVESTMENT REPRESENTATIONS FOR THE LIMITED LIABILITY COMPANY INTERESTS. THE LIMITED LIABILITY COMPANY INTERESTS WILL NOT BE TRANSFERRED OF RECORD EXCEPT IN COMPLIANCE WITH SUCH LAWS, THIS LIMITED LIABILITY COMPANY AGREEMENT AND THE SUBSCRIPTION AGREEMENT AND THE INVESTMENT REPRESENTATIONS. THEREFORE, PURCHASERS OF THE INTERESTS WILL BE REQUIRED TO BEAR THE RISK OF THEIR INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

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SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF

FAIRWAY VIVO GP FUND LLC

This Second Amended and Restated Limited Liability Company Agreement (this "Agreement") of Fairway Vivo GP Fund LLC, a Delaware limited liability company (the "Company"), is made as of March 12, 2021 (the "Effective Date") by and among Fairway America Management Group IV LLC ("FAMG IV"), Vivo Investments LLC ("Vivo"), with FAMG IV and VIVO each acting as a "Co-Manager" and together acting as the "Co-Managers" of the Company, Matthew W. Burk as the initial member ("Initial Member") and each of the parties who has executed a signature page to this Agreement and whose name and address is listed on Schedule A attached hereto (as may be amended from time to time) as a member (collectively the "Members," and any Persons hereafter admitted to the Company pursuant to Section 5.04 or ARTICLE 9 of this Agreement, and shall exclude any Persons who cease to be Members pursuant to Section 8.01 or ARTICLE 9 of this Agreement). Capitalized terms used but not defined in this Agreement will have the meanings set forth in Section 13.17.

RECITALS

WHEREAS, the Company was formed as described in Section 1.01 and organized pursuant to a Limited Liability Company Agreement dated as of December 4, 2020 (the "Original Agreement") by and between the Co-Managers and the Initial Member.

WHEREAS, the Members desire to amend and restate the terms and provisions of the Original Agreement.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, and with the intent of being legally bound, the parties hereto hereby agree to amend and restate the Original Agreement in its entirety to read as follows:

ARTICLE 1

GENERAL PROVISIONS

1.01 Formation of the Company. The Company was formed as a limited liability company under the Delaware Limited Liability Company Act (6 Del. C. § 18-101, *et seq.*), as amended from time to time (the "Act"), by the filing of the Certificate of Formation of Fairway Vivo GP Fund LLC on December 4, 2020. The Co-Managers, as agents for the Members, shall make

every reasonable effort to ensure that all other certificates and documents are properly executed, and shall accomplish all filing, recording, publishing and other acts necessary or appropriate for compliance with all of the requirements for the formation and continuation of the Company as a limited liability company under the Act.

1.02 Name. The name of the Company is "Fairway Vivo GP Fund LLC," which may be changed by the Co-Managers upon notice to the Members.

1.03 Principal Place of Business. The Company's office and principal place of business shall be located at 16150 SW Upper Boones Ferry Road, Portland, Oregon 97224, or at such other location as the Co-Managers may from time to time designate.

1.04 Registered Office and Registered Agent. The address of the registered office of the Company in the State of Delaware initially is 800 North State Street, Suite 403, Dover, Delaware 19901. The registered agent for service of process on the Company in the State of Delaware at the registered office initially is Unisearch, Inc. The Co-Managers may change the registered office or registered agent of the Company from time to time through appropriate filings with the Delaware Secretary of State.

1.05 Purposes and Powers of the Company. The Company is organized for the purpose of (i) identifying Assets in which the Company will make indirect investments by forming and investing in general partner and managing member interests of special purpose entities or similar vehicles that are managed by the Company and to which the Co-Managers or their Affiliates may provide asset management services (each, an "SPE" or "Special Purpose Entity"), that will each originate, acquire, and manage an individual Asset, all in accordance with the investment criteria described in 4.01 of this Agreement and in the Memorandum, (ii) holding, managing, supervising and disposing of the Company's Investments, (iii) engaging in such activities necessary, incidental or ancillary thereto, and (iv) engaging in any lawful act or activity for which limited liability companies may be organized under the Act in furtherance of the foregoing. Notwithstanding any other provision of this Agreement, the Company, and the Co-Managers on behalf of the Company, may execute, deliver and perform such agreements and documents as the Co-Managers determine are necessary or desirable for the formation and organization of the Company. In furtherance of this purpose, the Company shall have all powers necessary, suitable or convenient for the accomplishment of the aforesaid purposes, subject to the limitations and restrictions set forth in Section 4.01 or elsewhere in this Agreement as principal or agent, including, without limitation, all of the powers that may be exercised by the Co-Managers on behalf of and, except as specifically provided

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in this Agreement, at the expense of the Company pursuant to this Agreement or the Act, and further including, without limitation, the following:

(a) to engage in investment activities as the Co-Managers may determine, including, without limitation, to purchase for investment purposes, sell, exchange, invest and reinvest in, dispose of, and otherwise trade (i) directly in and with the Company's Investments, (ii) indirectly in Assets through SPEs, and (iii) other Company property and funds;

(b) to borrow money, encumber assets (including a pledge of unfunded Capital Commitments as security for any Warehouse Line) and otherwise incur recourse and non-recourse indebtedness (including the issuance of guarantees of the payment or performance obligations by any Person);

(c) to take any other action permitted under this Agreement, including without limitation, all actions permitted to be taken by the Co-Managers;

(d) engage the Co-Managers or their Affiliates to provide Asset management services to each SPE; and

(e) engage in any and all other activities permitted under applicable law and as may be necessary or advisable to further the business of the Company.

1.06 Term. The term of the Company (the "Term") commenced upon the filing of the Certificate of Formation of Limited Liability Company as set forth in Section 1.01 and shall continue until three years following (such period, the "Harvest Period") the earlier of (i) the end of the Investment Period, and (ii) the date the Company acquired its most recent Investment prior to the end of the Investment Period, unless dissolved earlier pursuant to the provisions of ARTICLE 11; provided, however, that the Term may be extended by two successive one-year periods in the Co-Managers' sole discretion.

1.07 Fiscal Year. The fiscal year of the Company (the "Fiscal Year") and the tax year of the Company shall end on December 31 of each year or such other date as the Co-Managers of the Company shall determine from time to time.

1.08 Withdrawal of Initial Member; Continuation of Company.

(a) The Initial Member has previously made a Capital Contribution of $100 to the Company. Upon the admission of one or more

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other Members following the Effective Date and notwithstanding anything in this Agreement to the contrary, the Initial Member shall (i) receive a return of any Capital Contribution made by it to the Company (without interest or reduction), (ii) automatically (and with no further action or instrument required) withdraw as the Initial Member of the Company, and (iii) have no further interest, right or obligation of any kind whatsoever on account of being the Initial Member. The Company shall indemnify and hold harmless the Initial Member to the fullest extent permitted by law from and against any liabilities incurred or suffered by it as a result of its acting in their capacity as such.

(b) The Co-Managers and the Members who are admitted as Members concurrently with the withdrawal of the Initial Member agree to continue the Company under the Act and in accordance with this Agreement. The rights and powers, and the obligations and liabilities, of the Members shall be as provided in the Act and in this Agreement.

ARTICLE 2

MANAGEMENT OF THE COMPANY; EXPENSES

2.01 Authority of Co-Managers; Relationship Among the Co-Managers and the Members.

(a) Except as otherwise expressly provided in this Agreement, the management, operation and control of the Company shall be vested exclusively in the Co-Managers, or in one or more entities owned or controlled by them, in whole or in part, and designated by them to carry out their duties under this Agreement, and who shall between them have the full and complete authority, power and discretion to exercise, on behalf of and in the name of the Company, all rights and powers of a manager of a limited liability company under the Act necessary or convenient to carry out the purposes of the Company, including without limitation, to manage and control the business, affairs and properties on behalf of and in the name of the Company, to make all decisions regarding those matters listed below in Section 2.01(b) or that this Agreement does not make expressly subject to approval by the Members, any Member Advisory Committee, or the Investment Committee, and to perform and to carry out any and all of the purposes of the Company and to perform any and all acts and activities and enter into and perform all contracts and other undertakings that they may deem necessary, appropriate, proper, customary, advisable, desirable, incidental or convenient thereto, including the power to conduct the Company's business as described in Section 1.05 of this Agreement. The Co-Managers shall take such actions as may be necessary to ensure that the Company is and continues throughout its term to be

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classified as a partnership for federal income tax purposes. Notwithstanding anything to the contrary contained in this Agreement, the acts of the Co-Managers in carrying on the business of the Company as authorized in this Agreement shall bind the Company.

(b) Subject to the limitations and restrictions expressly set forth in this Agreement, the Co-Managers shall perform or cause to be performed all management and operational functions relating to the business of the Company. Without limiting the generality of the foregoing, the Co-Managers are authorized on behalf of the Company to cause the Company to do the following:

(i) acquire, hold, finance, dispose of and otherwise manage any of the Company's Investments (or any underlying Assets) and, without limiting the foregoing, enter into one or more Warehouse Lines for the purpose of closing transactions, paying operating expenses, or providing for interim acquisition financing or refinancing in advance or in lieu of Capital Calls to further the Company's business;

(ii) pay, in accordance with the provisions of this Agreement, all expenses, debts and obligations of the Company to the extent that funds of the Company are available therefor;

(iii) bring, compromise, settle and defend actions at law or in equity;

(iv) engage in any kind of activity and perform and carry out contracts of any kind necessary to, or in connection with, the accomplishment of the purposes of the Company;

(v) enter into agreements and contracts with third parties in furtherance of the Company's business, including all documents and agreements as may be required in connection with raising capital and the acquisition or management of the Company's Investments;

(vi) maintain, at the expense of the Company, adequate records and accounts of all operations and expenditures;

(vii) purchase, at the expense of the Company, liability, casualty, fire and other insurance and bonds to protect the Company's assets, business, partners and employees;

(viii) purchase, at the expense of the Company, director and officer liability insurance to protect the Co-Managers and their employees;

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(ix) open accounts and deposit, maintain and withdraw funds in the name of the Company in any bank, savings and loan association, brokerage firm or other financial institution;

(x) establish reserves for contingencies and for any other proper Company purpose;

(xi) retain, and dismiss from retainer, any and all Persons providing legal, accounting, engineering, brokerage, consulting, appraisal, investment advisory or management services to the Company, or such other agents as the Co-Managers deem necessary or desirable for the management and operation of the Company and its Investments;

(xii) incur and pay all expenses and obligations incident to the operation and management of the Company, including, without limitation, the services referred to in subparagraph (xi), taxes, interest, travel, rent, insurance, and supplies;

(xiii) distribute funds to the Members by way of cash or otherwise, all in accordance with the provisions of this Agreement;

(xiv) prepare and cause to be prepared reports, statements and other relevant information for distribution to Members;

(xv) prepare and file all necessary returns, reports and statements, and pay all taxes, assessments and other impositions relating to the assets or operations of the Company;

(xvi) effect a dissolution of the Company as provided in this Agreement;

(xvii) act for and on behalf of the Company in all matters incidental to the foregoing;

(xviii) enter into, perform or terminate an advisory services agreement with terms not inconsistent with this Agreement (as from time to time in effect, the "Advisory Services Agreement") with FAIA, providing for FAIA to make investment decisions for the Company through an investment committee to be structured by FAIA (the "Investment Committee");

(xix) form one or more SPEs in which the Company will make an Investment, identify investors to invest in the SPEs, determine the terms of each SPE's governing agreement, and engage service providers to provide management services, which may include the Co-Managers and their Affiliates, with the respect to the SPEs and the Assets held by the SPEs;

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(xx) make investments on a short-term basis of the Company's cash prior to its use for Company purposes or distribution to the Members; and

(xxi) authorize any partner, member, officer, or other agent of the Co-Managers to act for and on behalf of the Company in all matters incidental to the foregoing.

By executing this Agreement, each Member shall be deemed to have consented to any exercise by the Co-Managers of any of the foregoing powers or other powers of the Co-Managers contained and described in this Agreement. The Company, and the Co-Managers on behalf of the Company, may enter into and perform any subscription agreements (including the Subscription Agreements), management agreements, advisory agreements, and agreements to induce any Person to purchase an Interest, and any documents contemplated thereby or related thereto and any amendments thereto, without any further act, vote or approval of any Person, including any Member, notwithstanding any other provision of this Agreement.

(c) The Co-Managers shall have the right to determine their respective rights and obligations concerning the management of the affairs and operations of the Company, including the ability of each Co-Manager to make certain decisions and take certain actions on the Company's behalf unilaterally, as well as certain decisions and actions that must be made unanimously by both Co-Managers. Any agreement among the Co-Managers concerning their respective rights and obligations will be memorialized in a separate, written co-management agreement (the "Co-Management Agreement"), which will be available to any Member upon request. The Co-Managers will be entitled to divide their rights and responsibilities differently over time, to amend the Co-Management Agreement as needed to reflect any changes, and to transfer their interests in the Company and their rights and obligations as Co-Managers to another entity or entities owned and controlled, in whole or in part, by them, all without the consent of the Members. Except as otherwise provided in any Co-Management Agreement, all actions to be taken or determinations to be made by the Co-Managers under this Agreement shall require the approval of both Co-Managers.

(d) Any Person dealing with the Company or the Co-Managers may rely upon a certificate signed by either of the Co-Managers as to:

(i) the identity of the Co-Managers or any Member of this Agreement;

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(ii) the existence or non-existence of any fact or facts which constitute a condition precedent to acts by the Co-Managers or in any other manner germane to the affairs of the Company;

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

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

(e) A Member, by virtue of its status as a Member, shall have no right to, and shall not, participate in the management or control of the Company's business or act for or bind the Company, and shall only have the rights and powers granted to Members in this Agreement or the Act.

(f) Subject to the limited consent rights granted to any Member Advisory Committee in this Agreement, any and all rights, including voting rights, pertaining to any of the Company's Investments, the underlying Assets, or any other property of the Company shall be vested exclusively in the Company and may be exercised only by the Co-Managers (or by FAIA to the extent permitted by the terms of the Advisory Services Agreement) acting in accordance with the terms of this Agreement, and no Member either alone or acting with one or more other Members shall have any such rights with respect to the Company's Investments or the underlying Assets. All determinations, decisions and actions made or taken by the Co-Managers (or FAIA to the extent permitted by the terms of the Advisory Services Agreement) in good faith and in accordance with this Agreement and the Co-Management Agreement shall be conclusive and absolutely binding upon the Company, the Members and their respective successors and assigns.

2.02 Removal of the Co-Managers.

(a) Either Co-Manager may be removed as a Co-Manager upon the election by Two-Thirds in Interest of the Members (but any Interests owned by Affiliates of the Co-Managers shall not be included in the calculation of the vote required for removal) within 90 days after written notice that a court of competent jurisdiction has held, in a final, unappealable ruling, that the Co-Manager being removed or a principal of that Co-Manager has (i) committed (or pled nolo contendere to having committed) embezzlement, fraud or any other act involving material improper personal benefit against the Company, any of the Company's Investments, or any of the underlying Assets, or (ii) materially breached this Agreement, which breach remains uncured as of the date of such finding, in a manner that has had a material adverse effect on the Company and Members; provided, however, that no removal right shall arise under this Section 2.02(a) if, in the case of acts by a

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principal of a Co-Manager, the offending principal is removed as a partner or member of the Co-Manager within 30 days after the court ruling that would otherwise have given rise to a right by Members to remove the Co-Manager. The Co-Managers shall promptly provide the Members with written notice of any event described in this Section 2.02(a) which would give rise to the right to remove a Co-Manager.

(b) In the event of the removal of both of the Co-Managers pursuant to Section 2.02(a), the Company shall dissolve in accordance with Section 11.01 unless a Majority in Interest of the Members elect to continue the Company and appoint new Co-Managers.

(c) In the event of the removal of one of the Co-Managers pursuant to Section 2.02(a), a Majority in Interest of the Members may elect to appoint a new Co-Manager to fulfill the obligations of the removed Co-Manager. Unless and until the Members appoint a new Co-Manager to replace the removed Co-Manager, the remaining Co-Manager shall be entitled to perform all of the functions of the removed Co-Manager.

(d) In the event that the Members elect pursuant to Section 2.02(b) to continue the Company following the removal of both Co-Managers, the former Co-Managers shall have no further rights or powers of a Co-Managers, but shall be treated for purposes of this Agreement as Members to the extent they have made an investment in the Company.

2.03 Business with Affiliates.

(a) The Co-Managers are authorized to retain FAIA and enter into the Advisory Services Agreement pursuant to which the Co-Managers, on terms to be determined and agreed to by the Co-Managers acting on behalf of the Company, may delegate to FAIA some or all of the Co-Managers' authority to make investment decisions for the Company with respect to the Company's Investments and the underlying Assets in accordance with the terms of the Advisory Services Agreement, provided that the Co-Managers shall retain primary responsibility for the performance of the duties delegated to FAIA under the Advisory Services Agreement, and the Co-Managers' fiduciary duties to the Company and Members shall not be altered thereby; provided further that FAIA shall at all times be an Affiliate of one of the Co-Managers.

(b) In addition to the services and transactions specifically contemplated by this Agreement, the Co-Managers and their representatives, advisors, and Affiliates may provide services to and engage in transactions with the Company, SPEs, and their respective Affiliates on terms and conditions that are customary in arms-length transactions of that type in the

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applicable geographic market, as determined by the Co-Managers in their sole and reasonable discretion.

(c) The Company also may invest in SPEs in which either Co-Manager or their respective Affiliates holds any interest, in each case on terms and conditions that the Co-Managers determine are fair and reasonable.

2.04 Reliance by Third Parties. Persons dealing with the Company with respect to actions apparently in the ordinary course of the Company's business are entitled to rely conclusively upon a certificate of the Co-Managers to the effect that they are then acting as the Co-Managers of the Company and that their actions are duly authorized hereunder.

2.05 Actions Requiring Approval of a Majority in Interest of the Members. Notwithstanding anything in this Agreement to the contrary, and subject to Section 4.02, the Company may not enter into any line of business other than the lines of business described in Sections 1.05(a) and 1.05(b) and in the Memorandum in effect as of the Effective Date or any reasonably related business activities without the prior approval of a Majority in Interest of the Members.

2.06 Other Business Activities. Management of the Company shall not be the exclusive activity of the Co-Managers. Each Co-Manager shall devote only such time and effort to the Company as is reasonably necessary to effectively carry out the Company's business and affairs, it being understood that time and effort devoted by the Co-Managers to the Company's Investments and the management of the Assets held by the SPEs shall be considered time and effort devoted to the Company's business. For the avoidance of doubt, the Co-Managers and their Affiliates (including, without limitation, their respective principals) may pursue and engage, without limitation except as provided in Section 2.07, in whatever other transactions and business activities any of them desires, including those transactions and business activities that are competitive with the Company.

2.07 Opportunities. Notwithstanding anything in this Agreement to the contrary, during the Investment Period, FAMG IV, Vivo and any Affiliate of Vivo shall present to the Company any investment opportunity (other than any co-investment as described in Section 2.08) that falls within the Company's investment criteria described in the Memorandum (each an "Opportunity") prior to FAMG IV, Vivo or any of Vivo's Affiliates taking that Opportunity itself. Each Member expressly waives application of the corporate opportunity doctrine to the Co-Managers; *provided, however,* that such waiver shall not be deemed to waive and shall not waive any non-waivable rights that the Member may have under applicable federal or state law. In deciding whether to invest in any Opportunity presented to the Company, the Co-

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Managers (or the Investment Committee if it is presented with the issue) may consider (A) whether the Opportunity (i) meets the Company's underwriting criteria, (ii) would decrease the Company's geographic diversity, and (iii) can be acquired by the Company's available financial resources, and (B) other factors determined in good faith by the Co-Managers (or the Investment Committee if it is presented with the issue).

2.08 Co-Investment Opportunities. The Company may, in the Co-Managers' sole discretion, give certain Persons, including Affiliates, Members, and other third parties, an opportunity to co-invest alongside the Company in one or more SPEs. Such co-investment opportunities may be made available through limited partnerships, limited liability companies, or other entities formed for the specific purpose of facilitating such co-investment. The terms of any such co-investment shall be set by the Co-Managers on a basis the Co-Managers believe to be fair and reasonable to the Company and may include the payment of fees and profits interests to the Co-Managers or Affiliates of the Co-Managers. For the avoidance of doubt, the Company's acquisitions of Investments, including in transactions with other investors in any SPE, shall not be considered or deemed a co-investment by the Company and, instead, is specifically authorized under Section 2.01(b) as part of the Company's investment strategy.

2.09 Management Fee. Commencing on the Initial Closing and continuing through the end of the Term, the Company shall pay the Co-Managers a management fee (the "Management Fee"), payable monthly in arrears within 15 days after the end of each calendar month, equal to 2% per annum of all aggregate Capital Commitments, less (i) during the Investment Period the aggregate amount of all distributions of Net Cash to Members constituting a return of Invested Capital and (ii) following the Investment Period, the amounts described in clause (i) and the aggregate amount of unfunded Capital Commitments at the end of the Investment Period. The Management Fee in any partial period shall be prorated on a daily basis according to the actual number of days in such period. The Management Fee shall be paid to the Co-Managers, who shall determine how the fee will be divided between them, unless the Company is otherwise directed in a writing signed by both Co-Managers. A portion of the Management Fee that is allocable to investment advice and management services, as determined by the Co-Managers, will be payable to FAIA.

2.10 Capital Raise Fees. The Company will pay North Capital Private Securities Corporation, a FINRA registered broker/dealer, a capital raise fee in an amount equal to 2.35% of all Capital Contributions received from Members of the Company, other than Capital Contributions from Members whose Capital Commitment to the Company are sourced by third parties who

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receive a separate capital raise fee based on the amount of those Capital Commitments or Capital Contributions to the Company (the "Capital Raise Fee"). A portion of the Capital Raise Fee, in an amount not to exceed 2.0% of all Capital Contributions received from Members of the Company, as determined in the Co-Managers' discretion, will be payable to Fairway America Capital Markets Group, LLC ("CMG"), an affiliate of FAMG IV, as reimbursement for cumulative salaries and direct expenses paid by CMG to registered representatives who are involved in capital raising activities for the Company. In addition to this Capital Raise Fee, the Company may pay other fees and costs to unaffiliated, duly licensed third-party placement agents, broker/dealers, third-party marketers, and similar entities retained to raise capital for the Company.

2.11 Company Expenses. Company Expenses shall include, but not necessarily be limited to, the following reasonable expenses incurred in execution of the Company's investment strategy and the operation of the Company: the Management Fee, Capital Raise Fee, and other fees paid to third-parties to raise capital for the Company, Company creation and organizational costs, tax preparation, independent auditor fees, legal fees, third-party fund administration fees, including fees paid to an Affiliate, origination fees and/or interest on any Warehouse Lines, taxes, insurance, Pursuit Costs, including Pursuit Costs relating to Assets pursued but not acquired, and similar costs not reimbursed by an SPE, travel costs, litigation and other extraordinary expenses, the costs and expenses of any Member meetings, and any other expense associated with the operation of the Company and the management of its Investments and the underlying Assets, including all allowable expenses reasonably incurred by the Co-Managers and reimbursed by the Company, and expenses of any Member Advisory Committee and Investment Committee.

2.12 Other Income. In addition to the Management Fee and the Capital Raise Fee, the Co-Managers anticipate that they and their Affiliates will receive the following additional fees and commissions:

(a) Any carried interests and promotes that the Co-Managers are able to negotiate with the investors in an SPE other than the Company, which are expected to be in the range of 20-40% of each SPE's profits above a preferred return of 8-10%;

(b) Market-based fees for fund administration and tax preparation services (collectively, the "Admin Fee"), payable to Verivest, for all necessary investor accounting, tax preparation, reporting and other investor relations activities, and financial administration for the Company and each SPE; and

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(c) Other fees payable to Co-Managers or their Affiliates by each SPE, as determined through negotiations with the investors in that SPE other than the Company. All such fees will be reasonable and consistent with industry standards for similar projects, but are expected to include a management fee payable to the Co-Managers based on the amount of capital contributed by investors in each SPE other than the Company, an acquisition fee based on the total purchase price of each Asset, processing, underwriting, due diligence or similar fees intended to compensate one or both of the Co-Managers for services provided in connection with the underwriting and acquisition of each Asset, a market-based property management fee based on the effective gross income of an Asset managed by any affiliated entity or a property management oversight fee if an Asset is managed by an unaffiliated third-party manager, a market-based development fee based on costs incurred in connection with any approved capital improvements to an Asset, and other reasonable, market-based fees approved by the SPE's investors for services provided by the Company, Co-Managers, or their Affiliates.

2.13 Investment Committee. In order to fulfill its obligations to the Company and to the Co-Managers under the Advisory Services Agreement, FAIA intends to create an investment committee (the "Investment Committee"), which shall, notwithstanding any contrary grant of authority to the Co-Managers set forth in Section 2.01, exercise decision-making authority with respect to the acquisition and disposition of any Investment. The Investment Committee is expected to be comprised of up to five members, one of whom will be a representative of Vivo, and four of whom will be officers of Fairway. Each of the five members will vote on all matters brought before the Investment Committee. Decisions of the Investment Committee require unanimous approval. No member of the Investment Committee shall, in its capacity as such, have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. The Investment Committee shall set the rules of conduct for its meetings.

2.14 Member Advisory Committee.

(a) The Co-Managers may, in their sole discretion, but shall have no obligation to, appoint an advisory committee of between three and five members to provide input and advice and to make certain enumerated decisions with respect to the operations of the Company (the "Member Advisory Committee"). All members of any Member Advisory Committee shall be appointed by the Co-Managers and may be removed by the Co-Managers for any reason at any time.

(b) The Member Advisory Committee, if formed, will have the authority to approve the following matters: (i) any material conflicts of

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interest between the Co-Managers and the Company brought to the Member Advisory Committee by the Co-Managers in their sole discretion, including review and approval of Affiliate transactions and decisions by either of the Co-Managers to pursue an Opportunity (as permitted by this Agreement) for itself or one of its Affiliates; (ii) any extension of the Term beyond the Co-Manager's express right to extend the Term, as provided in Section 1.06; (iii) any decision to hold Investments after the Term; (iv) any (A) approval required under Rule 206(3) of the Investment Advisers Act of 1940, as amended (the "Advisers Act") and (B) consent to a transaction that would result in the "assignment" (within the meaning of the Advisers Act) of the Advisory Services Agreement with the Company; and (v) any other matter submitted to the Member Advisory Committee for approval by the Co-Managers in the Co-Managers' sole discretion.

(c) Any action by the Member Advisory Committee must be taken by the unanimous decision of its members.

(d) The members of the Member Advisory Committee (i) will not owe a fiduciary duty to the Company or the Members, (ii) may have substantial responsibilities outside of the activities of the Company and will not be obligated to devote any particular portion of time to the activities of the Company, and (iii) may engage in activities that are competitive with the Company.

ARTICLE 3

THE MEMBERS

3.01 The Members. The name and address of each Member admitted to the Company, the amount of such Member's Capital Commitment to the Company, and such Member's Ownership Interest is set forth on Schedule A. Such schedule, as may be amended from time to time by the Co-Managers in accordance with Section 13.03(b), shall be filed with the records of the Company at the principal office of the Company and is hereby incorporated by reference and made a part of this Agreement.

3.02 Company Interests; Ownership Interests. As of the Effective Date, there shall be a single class of limited liability company interests in the Company (the "Interests"). The "Ownership Interest" of a Member shall be the Member's Interest in the Company equal to a number, expressed as a percentage, determined by dividing the unreturned Capital Contributions made by such Member by the aggregate unreturned Capital Contributions made by all Members. A Member's Ownership Interests will be used to determine a Member's voting rights and economic rights with respect to the return of Invested Capital. A Member's economic rights regarding

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allocations of the Company's income, loss, and depreciation, as well as any distributions by the Company other than distributions that constitute a return of Invested Capital will be made based on the Member's Weighted Average Capital Contribution Percentage, as defined below, not on the Member's Ownership Interest. The provisions of this Section 3.02 shall not give a Member an interest in any amount credited to the Capital Account of any other Member.

3.03 Liability of Members. Except as otherwise expressly provided in the Act, the liability of the Members shall be limited to the maximum extent permitted by the Act, and the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member shall be obligated personally for any such debt, obligation or liability solely by reason of being a Member. Except as otherwise expressly provided in this Agreement and in the Act, the liability of each Member shall be limited to the amount of such Member's Capital Commitment, but only when and to the extent the same shall become due and payable pursuant to the provisions of this Agreement.

3.04 Events Affecting the Members.

(a) Except as provided in Sections 2.02(b) and 11.01, the death, temporary or permanent incapacity, insanity, incompetence, Bankruptcy, withdrawal, expulsion, removal, liquidation, dissolution, reorganization, merger, sale of all or substantially all of the stock or assets, or other change in the ownership or nature of either of the Co-Managers, or the transfer of the Co-Managers' interests in the Company and their rights and obligations as Co-Managers to another entity or entities owned and controlled, in whole or in part, by them shall not constitute an "event of withdrawal" of either Co-Manager under the Act, and upon the happening of any such event, the affairs of the Company shall be continued without dissolution by the remaining Co-Manager or by the remaining Co-Manager and any successor entity to the impacted Co-Manager.

(b) The death, temporary or permanent incapacity, insanity, incompetence, Bankruptcy, withdrawal, expulsion, removal, liquidation, dissolution, reorganization, merger, sale of all or substantially all of the stock or assets, or other change in the ownership or nature of a Member shall not dissolve the Company. The trustee, executor, administrator, committee or guardian of the Member or of the Member's estate, as the case may be, shall have all the rights of the Member for the limited purpose of settling or managing the estate and such power as such Member possessed to assign all or part of such Member's Interest, provided that any such trustee, executor, administrator, committee or guardian shall become a substitute Member for

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such limited purposes only upon compliance with the applicable provisions of ARTICLE 9.

3.05 Representations and Warranties. Each Member represents and warrants to the Company and to every other Member as follows:

(a) The Member will provide promptly, upon request by either Co-Manager, all financial data, documents, reports, certifications or other information necessary or appropriate to enable the Company to apply for and obtain an exemption from the registration provisions of applicable law and any other information required by governmental agencies having jurisdiction over the Company.

(b) All representations and warranties made by the Member to the Company or the other Members in any other documents relating to the Company, including the subscription agreement relating to the Interest being purchased by the Member (the "Subscription Agreement"), are true and complete.

(c) If such Member is an individual, (i) the Member has full legal capacity to execute and deliver this Agreement and to perform the Member's obligations hereunder, and (ii) the execution, delivery and performance of this Agreement do not and will not violate or result in a breach of any provision of, or give rise to a right by any party to terminate or amend its obligations under, any material contract, agreement or other material arrangement or commitment to which the Member is a party or by which the Member is bound.

(d) If such Member is not an individual, (i) the Member is duly organized and has all requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and (ii) the execution, delivery and performance of this Agreement have been duly authorized by all requisite action and do not and will not violate or result in a breach of any provision of, or give rise to a right by any party to terminate or amend its obligations under, any material contract, agreement or other material arrangement or commitment to which it is a party or by which it is bound.

(e) Each Member that is an entity that would be an "investment company" under the 1940 Act, but for an exclusion under either section 3(c)(1) or section 3(c)(7) of the 1940 Act, has informed the Co-Managers of the number of Persons that constitute "beneficial owners of such Member's outstanding securities (other than short-term paper)" within the meaning of clause (A) of subsection 3(c)(1) of 1940 Act, and will inform the Co-Managers promptly upon any change in that number.

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(f) Each Member affirms that it (i) meets the suitability requirements set forth in their Subscription Agreement submitted to the Co-Managers in connection with its investment in the Company, and (ii) is an "accredited investor" (as defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act")), and its Interests have been acquired by it for its own account for investment and not with a view to resale or distribution thereof. In making its decision to invest in the Company, the Member has relied solely on (x) this Agreement and the Company's Amended and Restated Confidential Private Placement Memorandum dated March 12, 2021 (as amended, supplemented, restated, or otherwise modified from time to time, the "Memorandum"); (y) the advice of its own tax, legal or other advisers; and (z) independent investigations made by such Member before becoming a Member.

(g) If such Member is subject to Section 511 of the Code, it acknowledges that the Co-Managers are not obligated to structure the Company's Investments or take into account the Member's tax status to avoid causing the Member to be allocated "unrelated business taxable income" within the meaning of Section 512 of the Code or "unrelated debt-financed income" within the meaning of Section 514 of the Code.

(h) The Member acknowledges and understands that the business of the Company involves a high degree of risk, that there is no market for Interests in the Company, nor is there any prospect that one will develop, that there is no plan or commitment to register interests in the Company for sale under the Securities Act or any state securities law, and that withdrawals of capital from the Company are limited by the terms of this Agreement.

3.06 Acknowledgment and Waiver Regarding Independent Activities, Conflicts of Interest and Certain Related Party Transactions.

(a) Each Member affirms that it has received and read a copy of the Memorandum outlining, among other things, the organization, investment objectives and policies of, and the risks and expenses of an investment in, the Company. Each Member acknowledges that it has reviewed and understands the "Conflicts of Interest" section of the Memorandum, and further understands that (i) either Co-Manager and their respective Affiliates may (A) carry on investment activities for their own accounts and for Persons who do not invest in the Company; (B) give advice and recommend investments to Persons who do not invest in the Company, which advice may differ from advice given to, or investments recommended or bought for, the Company, even though their business or investment objectives may be the same or similar; (C) be engaged in activities, including investment activities,

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apart from their management of the Company as permitted by this Agreement, and will devote to the Company only so much of their time as is necessary or appropriate for the Company's activities as provided in Section 2.06; and (D) compete with the Company for investment opportunities or have a material interest in any Investment held by the Company subject to Section 2.07; (ii) certain employees of the Co-Managers and their respective Affiliates are expected to continue to perform services for the Co-Managers and their Affiliates, as well as for new investment funds and accounts that the Co-Managers and their respective Affiliates may hereafter establish in such manner as the Co-Managers and their respective Affiliates, in their sole discretion, deem appropriate; and (iii) the Company may co-invest with Affiliates of the Co-Managers. In furtherance and not in limitation of the foregoing, each Member acknowledges that (x)(i) FAIA, an Affiliate of FAMG IV, is in the business of providing investment advisory services to multiple clients, and the Company will be one such client, and (ii) FAMG IV, which may provide services to the Company pursuant to Section 2.03(b), and its Affiliates, including Fairway America, are engaged in a broad spectrum of real estate activities; and (y) in the ordinary course of their businesses, FAIA, FAMG IV, Fairway and their respective Affiliates may engage in activities in which their interests, or the interests of their clients, may conflict with the interests of the Company and the Members. Each activity of FAIA, FAMG IV, Fairway, and their respective Affiliates described in this Section 3.06(a), whether an actual or potential conflict of interest, and occurring in the past, present or future, is referred to in this Agreement as an "<u>Independent Activity</u>."

(b) By acquiring an Interest, each Member (i) acknowledges the existence of the actual and potential conflicts of interest described in Section 3.06(a) and, to the fullest extent permitted by applicable law, hereby waives any claims with respect to the existence of all such conflicts of interest; and (ii) acknowledges and agrees that neither the Company nor any Member shall (x) have any right to participate in any Independent Activity of their respective Affiliates, (y) receive any revenues, profits, fees or other amounts derived from any such Independent Activity, or (z) have any other interest in any such Independent Activity.

ARTICLE 4

INVESTMENT CRITERIA AND RESTRICTIONS

4.01 <u>Investment Criteria; Leverage</u>.

(a) The Co-Managers, on behalf of the Company, are authorized to make Investments in accordance with the investment criteria contained in

this Section 4.01 and the provisions of Section 1.05 and the Memorandum; provided, that if the Company has entered into the Advisory Services Agreement, any Investment by the Company must be authorized by FAIA and approved by the Investment Committee.

(b) The investment objective of the Company is to generate income and long-term capital growth by forming and making Investments in SPEs managed by the Company, or the Co-Managers on behalf of the Company, that will originate, fund, and acquire multiple hotels and motels, with a focus on budget and midscale hotels in areas throughout the United States where the Co-Managers believe there is a strong demand for work-force level housing, to convert those hotels to work-force level multifamily properties, and to operate and eventually sell those converted hotels in a manner that generates income and profits for the investors in each SPE and for the Company.

(c) The Company will not (i) invest in undeveloped land, (ii) invest in purely ground-up development projects, or (iii) invest in any real property located outside of the United States.

4.02 Investment Company Act, ERISA and Other Limitations.

(a) The Co-Managers will use reasonable efforts to operate the Company in such a way that (i) the Company will not be required to register as an "investment company" under the Investment Company Act of 1940, as amended (the "Company Act") (to the extent applicable); (ii) the Company's assets will not be deemed to be "plan assets" for purposes of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") (to the extent applicable); and (iii) each of the Company and the Co-Managers will be in compliance with the rules and regulations of any other material law, regulation or guideline applicable to the Company or the Co-Managers.

(b) The Co-Managers are hereby authorized to take any action they determine in good faith to be necessary, appropriate or desirable in order for (i) the Company not to be deemed an "investment company" under the Company Act (to the extent applicable); (ii) the Company's Investments and other assets not to be deemed to be "plan assets" for purposes of ERISA (to the extent applicable); or (iii) the Company or the Co-Managers not to be in violation of any other material law, regulation or guideline applicable to the Company or the Co-Managers.

(c) Actions taken by the Co-Managers in accordance with Section 4.02(b) may include (i) making any structural, operating or other changes in the Company by amending this Agreement (provided, however, that any such amendment may not increase the Capital Commitment of any

Member, affect the limited liability of a Member, or materially adversely affect the economic interest of a Member); (ii) canceling the unfunded portion of any Member's Capital Commitment or requiring the sale, in whole or in part, of any Member's Interest, in each case with respect to or as a result of when such violation arose; (iii) dissolving and terminating the Company (provided, however, that the Co-Managers shall use reasonable efforts to take other actions so that such dissolution and termination are not necessary); (iv) registering the Company as an investment company or other regulated entity, as applicable; or (v) requiring the withdrawal of any Member. In the event any action is taken under clause (v) of this Section 4.02(c) based on the reasons set forth in clause (ii) of Section 4.02(b), the Co-Managers shall require an opinion of counsel acceptable to the Co-Managers in their sole discretion to the effect that the continued ownership of an Interest in the Company more likely than not will not result in (A) a violation of any material law, regulation or guideline applicable to the Company or the Co-Managers, or (B) the Company's assets being deemed to be "plan assets" for purposes of ERISA. Any action taken by the Co-Managers pursuant to this Section 4.02 shall not require the approval of any Member.

(d) The Co-Managers shall make such revisions to Schedule A as may be necessary or appropriate to reflect any changes in Capital Commitments of the Members, Ownership Interests, admission of new Members, or the withdrawal of any Members pursuant to the terms of this Agreement.

4.03 Warehouse Lines.

(a) The Company is authorized to enter into one or more warehouse borrowing lines or similar credit facilities with one or more lenders (each, a "Warehouse Line") to close transactions, pay operating expenses, or provide for interim acquisition financing or refinancing in advance or in lieu of Capital Contributions to further the Company's business. Such Warehouse Lines may be secured by a pledge by the Company of all or a portion of the aggregate unfunded Capital Commitments of all Members. The Company may, in exchange for an appropriate guarantee fee, guarantee certain debt obligations of an SPE when the Co-Managers determine that doing so is in the best interests of the Company and the Members.

(b) Each Member understands, acknowledges and agrees, in connection with any Warehouse Line and for the benefit of any third-party lender thereunder, as follows: (i) the Company may pledge to a third-party lender the right to call and receive unfunded Capital Commitments under the Subscription Agreements to secure obligations under a Warehouse Line, (ii) any Warehouse Line will be outstanding for no more than 180 days, (iii) the

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Company may grant a security interest in such unfunded Capital Commitments to such third-party lender, (iv) each Member's obligation to fund an unfunded Capital Commitment is without defense, counterclaim or offset of any kind, and (v) the Member will make such representations and acknowledgements and deliver such documents as the Co-Managers and the third-party lender may reasonably request, including without limitation confirming its Capital Commitment and providing financial information. Each Member understands and acknowledges that in addition to any representation and acknowledgement it may be required to provide to any third-party lender to the Company, each Member will have a limited ability to use its Interest as collateral for other indebtedness and to transfer its Interest.

4.04 Limitation on Indebtedness. Notwithstanding anything to the contrary in this Agreement, the indebtedness of any Asset refinanced by an SPE shall not exceed 75% of the then-appraised value of the Asset.

4.05 Special Purpose Entities. The Members acknowledge that the Co-Managers intend to cause the Company to hold all or substantially all of its Investments in Assets indirectly, through multiple separate SPEs. Nothing in this Agreement shall be deemed to limit the authority of the Co-Managers to cause the Company to take any action indirectly through an SPE that would be permissible if such action were directly taken by the Company.

4.06 Member Considerations. The Members recognize that the differing financial, regulatory, income tax and other status and circumstances of the Members, including the timing of their respective Capital Contributions to the Company, may give rise to conflicts of interest among the Members with regard to the timing and amounts of Capital Calls, selection of Investments, disposition of assets, making of tax elections, or other Company matters. Except as otherwise specifically provided in this Agreement, the Co-Managers, when making decisions or taking action with respect to the Company or its business, shall not be required to take into consideration the separate status or circumstances of any Member or group of Members.

ARTICLE 5

COMMITMENTS AND CONTRIBUTIONS OF CAPITAL

5.01 Capital Commitments.

(a) Each Member hereby commits (a "Capital Commitment") to make capital contributions ("Capital Contributions") to the Company in the aggregate amount set forth in such Member's Subscription Agreement accepted by the Co-Managers on behalf of the Company.

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(b) Either or both of the Co-Managers may, but shall not be required to, make a Capital Commitment to the Company as disclosed in writing to the Members. All Capital Contributions from the Co-Managers, in their capacity as a Member, shall be made on the same schedule as the other Members.

5.02 Initial Closing. The initial closing of the Company (the "Initial Closing") shall occur on a date determined in the sole discretion of the Co-Managers (the "Initial Closing Date"), but in no event until the Company has received Subscription Agreements for aggregate Capital Commitments of at least $2,000,000 (including any Capital Commitments of the Co-Managers).

5.03 Raise Period. Following the Initial Closing, an unlimited number of subsequent closings (each, together with the Initial Closing, a "Closing") may occur for a period of up to 12 months after the Initial Closing Date, or until the Maximum Offering is reached, whichever is sooner (the "Raise Period"). Notwithstanding the foregoing, the Co-Managers may extend the Raise Period for one additional six-month period in their sole discretion.

5.04 Admission of Members. Before a Person is admitted as a Member of the Company, each of the following requirements must be fulfilled: (i) a copy of the Subscription Agreement must be executed by or on behalf of that Person, (ii) this Agreement must be executed by or on behalf of that Person, (iii) the Co-Managers must consent to the admission of that Person as a Member, (iv) that Person will be listed as a Member of the Company on Schedule A or otherwise in the records of the Company, and (v) all other applicable requirements for admission as a Member pursuant to this Agreement must be fulfilled. Upon satisfaction of each of these requirements, a Person will be admitted as a Member of the Company and that Member's Capital Commitment will become binding pursuant to the terms and conditions of this Agreement.

5.05 Capital Contributions.

(a) At any time during a period of 24 months after the Initial Closing Date, unless extended by an additional twelve-month period as determined by the Co-Managers in their sole discretion (the "Investment Period"), the Co-Managers may determine in their sole discretion to require the Members to make Capital Contributions in amounts, up to an aggregate amount not to exceed the Members' respective unfunded Capital Commitments, and at times determined by the Co-Managers (each, a "Capital Call") to be necessary or helpful to (i) make Investments in SPEs to acquire Assets, (ii) make follow-on Investments in existing SPEs with respect to existing Assets, (iii) pay the Management Fee, Capital Raise Fee, and other Company Expenses, (iv) repay Company indebtedness, including any

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Warehouse Line, (v) cover amounts necessary to maintain or protect the value of existing Investments, or (vi) establish any reserves that the Co-Managers determine to be reasonably necessary or advisable for purposes of effectively managing the Company's Investments, including maintaining liquidity, being able to respond to future capital calls by the SPEs, and for similar reasons.

(b) The Co-Managers will determine the amount of Capital Contribution called from each Member in connection with a Capital Call based on a number of factors, including the timing and amount of each Member's original Capital Commitment, the percentage of each Member's Capital Commitment that the Member has contributed in response to prior Capital Calls, and any other factors the Co-Managers deem relevant. There is no requirement that any Capital Calls require the Members to make Capital Contributions on a pro rata basis. It is likely that not every Member will be required to make a Capital Contribution in response to each Capital Call. Although the Co-Managers will use reasonable efforts to equalize the percentage of each Member's Capital Commitment that each Member has contributed by the end of the Investment Period, it is possible that some Members will ultimately contribute a greater or lesser percentage of their Capital Commitments than others during the Term. In all events, the Co-Managers shall have the right, in their sole discretion, and notwithstanding anything to the contrary in Section 8.02(a), to adjust the calculation of the amount of Capital Contributions called from different Members and to distribute Capital Contributions previously called from any Member at any time and in any manner the Co-Managers determine appropriate in their sole discretion to treat all Members in a manner that they determine to be as fair as possible to all Members and to accomplish the purposes of the Company as described in this Agreement and the Memorandum. The amount of any distributions to a Member made in accordance with the prior sentence that constitutes a return of Invested Capital will increase the Member's unfunded Capital Commitment by an equal amount. Under no circumstances will Members be required to make aggregate Capital Contributions to the Company in excess of their respective Capital Commitments.

(c) The Co-Managers shall deliver to each Member selected by the Co-Managers to participate in a Capital Call a written notice of that Member's required Capital Contribution and the due date for the required Capital Contribution at least 10 Business Days prior to that due date (a "Capital Call Notice"). Each Member shall make the Capital Contribution, up to the amount of the Member's unfunded Capital Commitment, by the due date set forth in the Capital Call Notice, in U.S. dollars by wire transfer of federal funds to an account or accounts of the Company specified in the Capital Call Notice. After the Investment Period, the Company may not require Capital Contributions for the purpose of making new Investments, but the Members

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will continue to be responsible for their unfunded Capital Commitments for the purposes described in clauses (ii) through (vi) of Section 5.05(a). Except as set forth in the immediately preceding sentence, all Members will be released from any further obligations to make Capital Contributions to the Company with respect to their unfunded Capital Commitments upon expiration of the Investment Period.

5.06 Defaulting Members.

(a) Unless otherwise excluded by the Co-Managers, if any Member shall fail, in part or in whole, to make its applicable Capital Contribution (the "Defaulted Amount") in accordance with the provisions of Section 5.05 on or before the date that such Capital Contribution is required to be made (a "Defaulting Member"), the Co-Managers may, in their sole discretion, take any one or more of the following remedial actions (and shall owe no fiduciary duties to the Defaulting Member in connection therewith): (i) charge interest on the Defaulted Amount at a rate per annum of no more than 18%; (ii) cause future allocations of items of income and gain to be allocated solely to the Capital Accounts of non-Defaulting Members; (iii) reduce amounts otherwise distributable by the Company to the Defaulting Member by up to 100% as of the date of the Default; (iv) cancel all or any portion of the Defaulting Member's unpaid Capital Commitment and adjust the Capital Account balances of all Members accordingly; (v) deem the Defaulting Member to have withdrawn from the Company effective as of the close of business on the date upon which the Defaulted Amount was originally due; (vi) require that the Defaulting Member deposit 100% of its remaining Capital Commitment with the Company or an escrow agent; (vii) cause up to 100% of the Company's future items of loss, expense and deduction to be allocated solely to the Capital Account of the Defaulting Member until the Defaulting Member's Capital Account balance is reduced to $0.00; (viii) offer to the non-Defaulting Members the opportunity to acquire all or a portion of the Defaulting Member's Interest in amounts determined by the Co-Managers based on the factors used to determine amounts of each Capital Call in exchange for the assumption of all or a portion of such Defaulting Member's remaining unfunded Capital Commitment; (ix) impose upon the Defaulting Member any other remedy determined by the Co-Managers to be consistent with the interests of the Company; (x) adjust the Defaulting Member's Ownership Interest as needed to equitably account for the Default; and (xi) pursue any remedies at law or in equity available to it with respect to the Default of a Defaulting Member.

(b) In addition to the aforementioned remedial actions, the Co-Managers may pursue any legal action, at law or in equity, to enforce the rights of the Company under this Agreement. In connection with any legal

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proceedings brought to enforce a Defaulting Member's obligations under this Agreement, or any other costs incurred by the Co-Managers or the Company in connection with a Defaulting Member's breach of this Agreement, the Defaulting Member shall be responsible for, and hereby agrees to bear, all costs and expenses (including attorney fees) incurred by the Company in connection with the collection of the amounts due, together with interest from the date due at a rate equal to the lesser of 18% per annum and the highest rate permitted by applicable law.

5.07 Deficit Restoration; Interest on Capital Contributions. A Member shall not have any obligation to the Company or to any other Member to restore any negative balance in the Capital Account of such Member. No Member may withdraw capital or receive any distributions except as specifically provided in this Agreement. No interest shall be paid by the Company on any Capital Contributions.

5.08 Assignment of Capital Contributions. The Co-Managers are hereby specifically authorized to assign as security for indebtedness of the Company the right hereunder to require the Members to make Capital Contributions as provided in Section 4.03; provided, however, that the Company shall not make any borrowing under such indebtedness other than as provided in Section 4.03. Each Member hereby agrees to execute and deliver any documentation requested pursuant to Section 4.03 and as otherwise reasonably requested to facilitate any such financing, including, without limitation, any acknowledgment by which such Member would agree to acknowledge and be bound by such assignment and to provide financial information to any applicable lender as reasonably requested.

ARTICLE 6

WEIGHTED AVERAGE CAPITAL CONTRIBUTIONS CALCULATIONS

6.01 WACC Calculations.

(a) The Company will use Weighted Average Capital Contribution or WACC calculations to determine appropriate allocations of income, depreciation and loss, as well as each Member's share of any distributions of Net Cash (other than distributions of Net Cash constituting a return of Invested Capital). For each specific allocation or distribution made by the Company to Members in accordance with WACC Percentages, the Co-Managers will calculate each Member's WACC Percentage no more than seven business days prior to the date of the allocation or distribution. The portion of each allocation and distribution made to each Member will be calculated by multiplying that Member's applicable WACC Percentages by the total amount being allocated or distributed.

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(b) "WACC" or "Weighted Average Capital Contribution" refers to a methodology used to determine appropriate allocations of income, depreciation and loss, as well as each Member's share of any distributions of Net Income, based on the different points of time at which Members make Capital Contributions to the Company. The methodology is intended to fairly adjust the amounts of allocations and distributions to Members in the Company based on the date of each Member's Capital Contributions.

(c) "Allocation Period" means the number of days between the date of each Capital Contribution and the date of the allocation or distribution for which Members' respective WACC Percentages are being calculated.

(d) "WACC Percentage" means, with respect to a specific allocation or distribution to a Member, the quotient of (i) aggregate Weighted Values of each Capital Contribution by the Member, (ii) divided by the aggregate Weighted Values of all Capital Contributions made by all Members, expressed as a percentage.

(e) "Weighted Value" means, with respect to each Capital Contribution by a Member, the dollar value of that Capital Contribution multiplied by the Allocation Period applicable to that Capital Contribution.

ARTICLE 7

CAPITAL ACCOUNTS; TAX ALLOCATIONS

7.01 Capital Accounts. There shall be established for each Member on the books of the Company a capital account (a "Capital Account"), which shall be maintained and adjusted in accordance with the following provisions:

(a) To each Member's Capital Account there shall be credited such Member's Capital Contributions, such Member's distributive share of Profits, and any items in the nature of income or gain that are specially allocated pursuant to Section 7.03 or Section 7.04, and the amount of any Company liabilities assumed by such Member or that are secured by any property distributed to such Member.

(b) To each Member's Capital Account there shall be debited the amount of cash and the Gross Asset Value of any property distributed to such Member pursuant to any provision of this Agreement, such Member's distributive share of Losses, and any items in the nature of expenses or losses that are specially allocated pursuant to Section 7.03 or Section 7.04, and the amount of any liabilities of such Member assumed by the Company or that are secured by any property contributed by such Member to the Company.

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(c) In the event all or a portion of an Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Interest.

(d) In determining the amount of any liability for purposes of subparagraphs (a) and (b), there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Co-Managers determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities that are secured by contributed or distributed property or that are assumed by the Company or any Member), are computed in order to comply with such Regulations, the Co-Managers may make such modification, provided that it is not likely to have a material adverse effect on the amounts distributable to any Member pursuant to ARTICLE 11 upon the dissolution of the Company. The Co-Managers also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the aggregate Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q) and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b), provided that, to the extent that any such adjustment is inconsistent with other provisions of this Agreement and would have a material adverse effect on any Member, such adjustment shall require the consent of such Member.

7.02 Profits and Losses. After giving effect to the special allocations set forth in Sections 7.03 and 7.04, Profits and Losses for any Allocation Year shall be allocated to the Members in a manner such that the Capital Account of each Member, immediately after making such allocation, is, as nearly as possible, equal (proportionately) to the distributions that would be made to such Member if (i) the Company were dissolved, its affairs wound up and its assets sold for cash in an amount equal to their Gross Asset Values, (ii) all Company liabilities were satisfied (limited, in the case of any nonrecourse liability, to the Gross Asset Values of the assets securing such liability), and (iii) the net assets of the Company were distributed in accordance with Section 11.02 to the Members, after subtracting for this purpose each Member's share

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of Company Minimum Gain and Member Nonrecourse Debt Minimum Gain, computed immediately after the hypothetical sale of assets.

7.03 Special Allocations. The following special allocations shall be made in the following order:

(a) Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding any other provision of this ARTICLE 7, if there is a net decrease in Company Minimum Gain during any Allocation Year, each Member shall be specially allocated items of Company income and gain for such Allocation Year (and, if necessary, subsequent Allocation Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 7.03(a) is intended to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Member Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(i)(4), notwithstanding any other provision of this ARTICLE 7, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Allocation Year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such Allocation Year (and, if necessary, subsequent Allocation Years) in an amount equal to such Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 7.03(b) is intended to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), Section 1.704-1(b)(2)(ii)(d)(5), or Section 1.704-1(b)(2)(ii)(d)(6), items of Company income and gain

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shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 7.03(b) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this ARTICLE 67 have been tentatively made as if this Section 7.03(b) were not in the Agreement.

(d) Gross Income Allocation. In the event any Member has an Adjusted Capital Account Deficit at the end of any Allocation Year, each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 7.03(c) shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this ARTICLE 6 have been made as if Section 7.03(c) and this Section 7.03(d) were not in the Agreement.

(e) Nonrecourse Deductions. Nonrecourse Deductions for any Allocation Year shall be specially allocated among the Members in proportion to their WACC Percentages.

(f) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Allocation Year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of its Interest, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their interests in the Company in the event Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made in the event Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(h) Allocations Relating to Taxable Issuance of Company Interests. Any income, gain, loss, or deduction realized as a direct or indirect result of the issuance of an Interest by the Company to a Member (the "Issuance Items") shall be allocated among the Members so that, to the

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extent possible, the net amount of such Issuance Items, together with all other allocations under this Agreement to each Member, shall be equal to the net amount that would have been allocated to each such Member if the Issuance Items had not been realized.

7.04 Loss Limitation. Losses allocated pursuant to Section 7.02 hereof shall not exceed the maximum amount of Losses that can be allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Allocation Year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to Section 7.02 hereof, the limitation set forth in this Section 7.04 shall be applied on a Member by Member basis and Losses not allocable to any Member as a result of such limitation shall be allocated to the other Members in accordance with the positive balances in such Member's Capital Accounts so as to allocate the maximum permissible Losses to each Member under Regulations Section 1.704 1(b)(2)(ii)(d).

7.05 Other Allocation Rules.

(a) Profits, Losses, and any other items of income, gain, loss, or deduction shall be allocated to the Members pursuant to this ARTICLE 6 as of the last day of each Fiscal Year, provided that Profits, Losses, and such other items shall also be allocated at such times as the Gross Asset Values of Company property are adjusted pursuant to subparagraph (ii) of the definition of "Gross Asset Value."

(b) For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Co-Managers using any permissible method under Code Section 706 and the Regulations thereunder.

(c) The Members are aware of the income tax consequences of the allocations made by this ARTICLE 7 and hereby agree to be bound by the provisions of this ARTICLE 7 in reporting their shares of Company income and loss for income tax purposes, except to the extent otherwise required by law.

(d) Solely for purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Regulations Section 1.752-3(a)(3), the Members' interests in Company profits are in proportion to their WACC Percentages.

(e) To the extent permitted by Regulations Section 1.704-2(h)(3), the Co-Managers shall endeavor to treat distributions of Net Income as having been made from the proceeds of a Nonrecourse

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Liability or a Member Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Member.

7.06 Tax Allocations; Code Section 704(c). 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 shall, solely for 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 initial Gross Asset Value (computed in accordance with subparagraph (i) of the definition of "Gross Asset Value" in Section 13.18). In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraph (ii) of the definition of "Gross Asset Value" in Section 13.18, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder. Any elections or other decisions relating to such allocations shall be made by the Co-Managers in any manner that reasonably reflects the purpose and intention of this Agreement, provided that the Company shall elect to apply the allocation method selected pursuant to the Regulations under Section 704(c). Allocations pursuant to this Section 7.06 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any other provision of this Agreement. Except as otherwise provided in this Agreement, all items of Company income, gain, loss, deduction, and any other allocations not otherwise provided for shall be divided among the Members in the same proportions as they share Profits or Losses, as the case may be, for the Allocation Year.

ARTICLE 8

WITHDRAWALS; DISTRIBUTIONS

8.01 Withdrawals.

(a) Without the consent of the Co-Managers, but subject to Section 9.04, no Member may withdraw from the Company (other than in accordance with the provisions of this Agreement) or make a withdrawal from its Capital Account. Distributions of the Company's assets that are provided for in this Agreement shall be made only to Persons who, according to the books and records of the Company, are holders of records of Interests in the

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Company on the date determined by the Co-Managers as of which the Members are entitled to any such distributions.

(b) The Co-Managers may require a Member to withdraw all or any amount of the value of the Member's Capital Account if the Co-Managers reasonably deem it necessary to do so to comply with anti-money laundering or other laws and regulations applicable to the Company, the Co-Managers, the Members, or any of the Company's service providers, or to avoid a material adverse impact on the Company or the other investors in the Company. In such event, the Co-Managers shall give not less than five days' written notice to the Member specifying the date of withdrawal. As soon as practicable thereafter, the withdrawing Member shall receive the balance of the value in such Member's Capital Account, subject to all appropriate adjustments pursuant to the provisions of this Agreement.

8.02 Distributions of Net Cash.

(a) Except as provided in Section 11.02, and subject to Section 8.03, the Co-Managers shall distribute any Net Income as of the end of each calendar quarter to the Members after the Co-Managers have reconciled the Company's financial statements for the quarter as follows:

(i) Any Net Cash the Co-Managers determine constitutes a return of Invested Capital will be distributed to the Members pro rata based on their respective Ownership Interests until the Members have received a return of their Invested Capital in full; and

(ii) Any Net Cash the Co-Managers determine does not constitute a return of Invested Capital will be distributed to the Members pro rata based on their respective WACC Percentages in effect at the time of each distribution.

(b) Notwithstanding any provision to the contrary in this Agreement, the Company, and the Co-Managers on behalf of the Company, shall not make a distribution to any Member on account of the Member's Interest if such distribution would violate the Act or other applicable law.

8.03 Reinvestment. During the Investment Period, the Co-Managers may, in their sole discretion, either (i) distribute to the Members any income from Investments, whether derived from the operations or disposition of Assets ("Proceeds") as Net Cash pursuant to Section 8.02(a) or (ii) solely with respect to Proceeds that, if distributed as Net Cash pursuant to Section 8.02(a) would be distributed as a return of Invested Capital pursuant to Section 8.02(a)(i), which may include amounts generated from the refinance of an Investment or Asset, and use any such Proceeds to acquire new Investments

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or make follow-on Investments in existing SPEs. Notwithstanding the foregoing, the Co-Managers shall always have the discretion to cause the Company to retain Proceeds to establish loss reserves and other reasonably anticipated capital needs of the Company, instead of causing the Company to distribute Proceeds to the Members as Net Cash pursuant to Section 8.02(a). During the Investment Period, if the Company makes any distributions of Net Cash constituting a return of Invested Capital pursuant to Section 8.02(a)(i), such distributed amounts shall be added to the Members' unfunded Capital Commitments in proportion to their respective Ownership Interests and may be called again by the Co-Managers through subsequent Capital Calls pursuant to Section 5.05.

8.04 Tax Distributions. Subject to the last sentence of this Section, the Co-Managers will use commercially reasonable efforts to cause the Company to distribute, within 100 days after the end of each calendar year, an amount of cash, calculated in accordance with the following sentence, to each Member to help enable such Member to pay tax with respect to the Company's net taxable income and gain, if any, allocated to such Member in respect of such calendar year (such amount, a "Tax Distribution"). The amount of any Tax Distribution to a Member will be calculated by the Co-Managers in their sole discretion based on the highest blended U.S. federal and state income tax rates applicable to a Member resident in Portland, Oregon taking into account whether and to what extent net taxable income allocated to the Member constitutes long-term capital gains and ordinary income, as applicable. All Tax Distributions will be made to the Members in proportion to allocations of taxable income for the applicable calendar year, which in turn are based on the Co-Managers' WACC Percentage calculations. Any amounts to be distributed to a Member as a Tax Distribution shall be reduced by any amount of cash already distributed to the Member, and any Tax Distribution actually distributed to a Member shall be treated as an advance against, and shall reduce the amount of, subsequent distributions of Net Cash pursuant to Section 8.02(a).

8.05 In-Kind Distribution. If any assets of the Company are distributed to the Members in kind, such assets shall be valued on the basis of the Fair Value thereof on the date of distribution. The Fair Value of such assets shall be determined by the Co-Managers in good faith. The amount by which the Fair Value of any property to be distributed in kind to the Members exceeds or is less than the basis of such property shall, to the extent not otherwise recognized by the Company, be taken into account in computing gain or loss of the Company for purposes of crediting or charging the Capital Accounts of the Members. At a Member's request, if assets are to be distributed in-kind, the Company may, in the sole discretion of the Co-Managers and at the expense of the Company, form a liquidating trust or other entity to hold such

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assets on behalf of such Member, and distribute the net proceeds from the sale or other disposition of such assets to such Member from time to time as they become available.

8.06 Suspension of Payment of Distribution for Anti-Money Laundering Purposes. The Co-Managers, by written notice to any Member, may suspend payment of any distribution to such Member if the Co-Managers reasonably deem it necessary to do so to comply with anti-money laundering laws and regulations applicable to the Company, the Co-Managers, or any of the Company's service providers.

8.07 Withholding Obligations. To the extent the Company is required by law to withhold or to make tax payments on behalf of or as to any Member ("Tax Payments"), the Company may withhold such amounts and make such Tax Payments as may be required. All such Tax Payments shall be treated for all other purposes of this Agreement as having been distributed to such Member (whether before or upon liquidation) in respect of the amount of such Tax Payments. Each Member hereby agrees to (a) indemnify and hold harmless the Company and the Co-Managers from and against any liability as to Tax Payments made on behalf of or as to such Member, and (b) promptly give the Company any certification or affidavit that the Company may request in connection with this Section 8.077.

8.08 Return of Distributions. For up to three years after the final dissolution of the Fund, to the extent needed to fund Company liabilities, including the Company's indemnity obligations under this the LLC Agreement, in the event the Company does not have sufficient cash or unfunded Capital Commitments to satisfy those obligations, the Company may require the Members to return any distributions previously made to them; provided, however, that in no event will a Member be obligated to return an amount greater than 25% of the lesser of (i) that Member's total Capital Commitment and (ii) all distributions previously made to that Member.

ARTICLE 9

TRANSFER OF INTERESTS

9.01 Transfer Restrictions.

(a) A Member may not assign, or otherwise Transfer its Interest, in whole or in part, to any Person, without the prior written consent of the Co-Managers, which consent may be given or withheld in the sole and absolute discretion of the Co-Managers; provided, that no such Transfer shall be made unless the Transferring Member and the Transferee provide any such

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documentation as the Co-Managers shall reasonably request; provided, further, that no such Transfer shall be made unless the Transferee takes such Interests subject to the Transfer restrictions in this Agreement; and provided, further, that no such Transfer shall be made unless, in the opinion of counsel (who may be counsel for the Company) satisfactory to the Co-Managers and which opinion may be waived, in whole or in part, in the sole and absolute discretion of the Co-Managers:

(i) such Transfer would not violate the Securities Act or any state securities or "Blue Sky" laws applicable to the Company or the Interest to be Transferred;

(ii) such Transfer would not cause the Company to become subject to the Company Act;

(iii) such Transfer would not cause the Company to be treated as a "publicly traded partnership" for federal income tax purposes and would not make the Company ineligible for "safe harbor" treatment under Section 7704 of the Code and the regulations promulgated thereunder; and

(iv) such Transfer would not cause all or any portion of the assets of the Company to constitute "plan assets" under ERISA or the Code.

In addition, the Co-Managers also may require any documentation or other legal opinions, at the expense of the Transferring Member or the proposed Transferee, that it deems necessary or advisable in connection with any Transfer, including, without limitation, executing this Agreement (by power of attorney or directly) and a Transfer Agreement and/or Subscription Agreement in form and substance satisfactory to the Co-Managers in their sole discretion. Each Transferring Member agrees that such Member will pay all reasonable expenses, including, without limitation, legal, accounting and valuation fees and expenses, incurred by the Company in connection with a Transfer of an Interest by such Member, except to the extent that the Transferee thereof agrees to bear such expenses.

(b) A Transferee of an Interest that is not admitted as a substitute Member shall be entitled only to allocations and distributions with respect to that Interest and shall have no rights to vote such Interest or to any information or accounting of the affairs of the Company and shall not have any of the other rights of a Member pursuant to this Agreement.

(c) Each Member agrees not to pledge, hypothecate, grant a security interest in or otherwise encumber ("pledge") any of its Interest at any time prior to the dissolution of the Company.

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(d) Any Transfer or pledge by a Member of any its Interest other than in compliance with this Agreement shall be null and void, and the Company shall refuse to register any such Transfer or pledge on its books.

(e) Notwithstanding anything in this Agreement to the contrary, either or both of the Co-Managers may Transfer their Interests to any other entity managed by the transferring Co-Manager or an Affiliate with the prior written consent of the other Co-Manager, which shall not be unreasonably withheld.

9.02 General Transfer Provisions. Except as otherwise provided by ARTICLE 11, in no event shall the Company dissolve or terminate upon the admission of any Member to the Company or upon any permitted Transfer of an Interest or any economic interest therein by any Member, and each Member hereby waives such Member's right to dissolve, liquidate or terminate the Company in any such event.

9.03 Waiver of Partition. Except for actions that may be taken pursuant to the terms of this Agreement and as otherwise specifically provided in this Agreement, (i) no Member shall, either directly or indirectly, take any action to require partition or appraisement of the Company or of any of its assets or properties, or cause the sale of any Company property, notwithstanding any provisions of applicable law to the contrary and (ii) each Member (for the Member and for the Member's legal representative, successor or assign) hereby irrevocably waives any and all right to maintain any action for partition or to compel any sale with respect to the Member's Interest, or with respect to any assets or properties of the Company.

9.04 ERISA Members.

(a) Notwithstanding any provision in this Agreement to the contrary, each ERISA Member may elect to withdraw from the Company, or upon demand by the Co-Managers shall withdraw from the Company, at the time and in the manner hereinafter provided, if either the ERISA Member or the Co-Managers shall obtain an opinion of counsel (which counsel, in the case of an ERISA Member, shall be reasonably acceptable to the Co-Managers) to the effect that, as a result of applicable statutes, regulations, case law, administrative interpretations, or similar authority (i) the continuation of the ERISA Member as a Member of the Company or the conduct of the Company will result, or it is more likely than not that the same will result, in a material violation of ERISA, or (ii) all or any portion of the assets of the Company constitutes assets of the ERISA Member for the purposes of ERISA and such assets are subject to the provisions of ERISA to substantially the same extent as if owned directly by the ERISA Member. In the event of the issuance of such opinion of counsel, a copy of such opinion shall be given

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to all the Members, together with the written notice of the election of the ERISA Member to withdraw or the written demand of the Co-Managers for withdrawal, as the case may be. Thereupon, (A) the Co-Managers and the ERISA Member shall use their reasonable best efforts to eliminate the necessity for such withdrawal, and (B) unless within 120 days after receipt of such written notice and opinion the Co-Managers is able to eliminate the necessity for such withdrawal to the reasonable satisfaction of the ERISA Member and the Co-Managers, whether by correction of the condition giving rise to the necessity of the Member's withdrawal, or the amendment of this Agreement, or otherwise, such Member shall withdraw its entire Interest in the Company, such withdrawal to be effective upon the last day of the fiscal quarter during which such 120-day period expired.

(b) The withdrawing Member shall be entitled to receive within 120 days after the date of such withdrawal an amount equal to the amount of such Member's Capital Account, adjusted to reflect unrealized gains and losses of the Company, as of the effective date of such withdrawal.

(c) Any distribution or payment to a withdrawing Member pursuant to this Section may, in the sole discretion of the Co-Managers, be made in cash; in a *pro rata* distribution of securities; in the form of a promissory note, the terms of which shall be mutually agreed upon by the Co-Managers and the withdrawing Member and which shall provide for partial payments, as if such promissory note represented an equity interest in the Company, at the time of cash distributions to the Members; or any combination thereof; provided, however, if the Member delivers to the Co-Managers an opinion of legal counsel reasonably acceptable to the Co-Managers that it is more likely than not that the withdrawing Member's receipt of an amount of any security would cause such Member to own or control in excess of the amount of such security that it may lawfully own or control or may own or control without tax penalty, then, upon receipt of such opinion the Co-Managers shall vary the method of distribution, in an equitable manner, so as to avoid such excessive ownership or control. In determining the form of payment to be made to the withdrawing Member, the Co-Managers will use reasonable efforts to make payments in cash to the extent reasonably available and subject to the ongoing cash requirements of the Company as determined by the Co-Managers.

ARTICLE 10

EXCULPATION AND INDEMNIFICATION

10.01 Exculpation.

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(a) To the fullest extent not prohibited by law, none of the Co-Managers, Fairway, the Partnership Representative, any members, directors, officers, employees or agents of the Co-Managers, Fairway, or the Partnership Representative, or any of the members of any Member Advisory Committee or Investment Committee (each, a "Covered Person") shall be liable to the Company or any Member for monetary damages for any losses sustained or liabilities incurred as a result of any act or omission taken or suffered by such Covered Person(s) unless a court of competent jurisdiction determines in a final judgment (without regard to the availability of any appeals granted on a discretionary basis) that such losses or liabilities are a result of bad faith, fraud, gross negligence, or willful misconduct by the Covered Person(s). Notwithstanding the prior sentence, no member of the Member Advisory Committee shall have any such liability unless the member acted in bad faith.

(b) The Co-Managers and such other Covered Persons may consult with counsel, consultants, appraisers, and accountants selected by them in respect of Company affairs and be fully protected and justified in any action or inaction that is taken in accordance with the advice or opinion of such counsel, consultants, appraisers, and accountants, and shall be conclusively presumed to have been and shall be conclusively presumed to have been done or omitted in good faith and in accordance with such advice or opinion.

(c) This Agreement is not intended to, and does not, create or impose any fiduciary duty on any Covered Person. Furthermore, to the fullest extent permitted by applicable law, each of the Members and the Company hereby waives any and all fiduciary duties that, absent such waiver, at law or in equity the Co-Managers or other Covered Person might otherwise have to the Members or the Company or may be implied by applicable law, and in doing so, acknowledges and agrees that the sole duties and obligations of each Covered Person to each other, to the Members, and to the Company are only as expressly set forth in provisions of this Agreement. To the fullest extent permitted by applicable law, the provisions of this Agreement, to the extent that they modify, restrict or eliminate the duties (including fiduciary duties) and liabilities of any Covered Person otherwise existing at law or in equity, are agreed by the Company and the Members to replace such other duties and liabilities of such Covered Person; *provided*, *however*, that nothing in this Agreement shall be deemed to modify, restrict or eliminate the Co-Managers' implied contractual covenant of good faith and fair dealing.

(d) Notwithstanding any other provision of this Agreement or otherwise applicable provision of law or equity, whenever in this Agreement the Co-Managers is permitted or required to make a decision in their "sole and absolute discretion," or "discretion," the Co-Managers shall be entitled to

consider only such interests and factors as they desire, including their own interests, and shall, to the fullest extent permitted by applicable law, have no duty (including any fiduciary duty) or obligation to give any consideration to any interest of or factors affecting the Members. Furthermore, no Covered Person shall be liable to the Company or any Member or other Person for a Co-Manager's or the Covered Person's good faith reliance on the provisions of this Agreement.

(e) Notwithstanding any of the foregoing to the contrary, the provisions of this Section, as well as the indemnification provisions described below in Section 10.02, shall not be construed so as to provide for the exculpation of any Covered Person for any liability (including liability under federal securities laws which, under certain circumstances, impose liability even on Persons that act in good faith), to the extent (but only to the extent) that such liability may not be waived, modified or limited under applicable law, but will be construed to effect the provisions of this Section to the fullest extent permitted by law.

(f) The Covered Persons who serve in any such capacity at any time are intended third party beneficiaries of this Section.

10.02 Indemnification.

(a) Indemnification Generally. The Company shall, to the fullest extent permitted by applicable law, indemnify out of the assets of the Company only, including Capital Commitments and the proceeds of any insurance policy, hold harmless and release, each Covered Person from and against any and all claims, demands, liabilities, costs, expenses, damages, losses, suits, proceedings and actions, whether judicial, administrative, investigative or otherwise, of whatever nature, known or unknown, liquidated or unliquidated ("Claims"), that may accrue to or be incurred by any Covered Person, or in which any Covered Person may become involved, as a party or otherwise, or with which any Covered Person may be threatened, relating to or arising out of the activities of the Company, or authorized activities undertaken in connection with the Company, or in any way otherwise relating to or arising out of this Agreement, including amounts paid in satisfaction of judgments, in compromise or as fines or penalties, and counsel fees and expenses reasonably incurred in connection with the preparation for or defense or disposition of any investigation, action, suit, arbitration or other proceeding (a "Proceeding"), whether civil or criminal (all of such Claims and amounts covered by this Section, and all expenses referred to in the next Section, are referred to collectively as "Damages"), except to the extent that it shall have been determined ultimately by a court or arbitral tribunal of competent jurisdiction that such Damages are a result of bad faith, fraud,

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gross negligence, or willful misconduct by the Covered Person(s), or, in the case of any member of the Member Advisory Committee or Investment Committee, that such Damages are a result of bad faith by the member.

(b) Advancement of Expenses. The reasonable expenses incurred by an Covered Person in defense or settlement of any Claim that may be subject to a right of indemnification hereunder may be advanced by the Company to such Covered Person prior to the final disposition thereof upon the approval of the Co-Managers and receipt of an undertaking by or on behalf of the Covered Person to repay such amount if (i) it shall be determined ultimately by a court or arbitral tribunal of competent jurisdiction that the Covered Person is not entitled to be indemnified under applicable law or (ii) upon receipt of an opinion of independent counsel to the Company, retained specifically for such purpose, that the Covered Person is not entitled to indemnification; *provided*, *however*, any determination pursuant to subclause (i) shall take priority over any determination pursuant to subclause (ii).

(c) No Direct Indemnity by Members. Members shall not be required to directly indemnify any Covered Person. Any right to indemnification pursuant to this Agreement shall be satisfied solely from the property of the Company, including committed Capital and any prior distributions the Company is entitled to require Members to repay for such purposes, as provided for in this Agreement, and the proceeds of insurance, if any.

(d) Notices of Claims, etc. Promptly after receipt by a Covered Person of notice of the commencement of any Proceeding, such Covered Person shall, if a claim for indemnification in respect thereof is to be made against the Company, give written notice to the Company of the commencement of such Proceeding; *provided, however,* that the failure of any Covered Person to give notice as provided in this Agreement shall not relieve the Company of its obligations under this Section, except to the extent that the Company is actually prejudiced by such failure to give notice. In case any such Proceeding is brought against a Covered Person (other than a derivative suit in right of the Company), the Company will be entitled to participate in and to assume the defense thereof to the extent that the Company may wish, with counsel reasonably satisfactory to such Covered Person. After notice from the Company to such Covered Person of the Company's election to assume the defense thereof, the Company will not be liable for expenses subsequently incurred by such Covered Person in connection with the defense thereof. The Company will not consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Covered Person of a release from all

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liability in respect to such Claim. The right of any Covered Person to the indemnification provided in this Agreement shall be cumulative with, and in addition to, any and all rights to which such Covered Person may otherwise be entitled by contract or as a matter of law or equity and shall extend to such Covered Person's successors, assigns and legal representatives. Any repeal or amendment of this Article shall be prospective only and shall not adversely affect rights under this Article existing at the time of such repeal or amendment.

ARTICLE 11

DISSOLUTION; WINDING UP

11.01 Events of Dissolution. Notwithstanding any other provision of this Agreement to the contrary, the Company shall be dissolved and its affairs wound up upon the earliest to occur of any of the following events (each, a "Dissolution Event"):

(a) the effective date of a decree of judicial dissolution of the Company pursuant to Section 18-802 of the Act;

(b) disposition of and reduction to cash of substantially all of the Company's Investments and other assets of the Company;

(c) the expiration of the Term, subject to any provision of this Agreement permitting an extension of the Term, and provided that the expiration of the Term shall not constitute a Dissolution Event if the Company continues to hold any Investments after the Term, consistent with the provisions of this Agreement;

(d) except as provided by Section 2.02(b), the removal of both Co-Managers, or any other event that results in both Co-Managers ceasing to be Co-Managers other than an assignment of their rights and obligations as Co-Managers to another entity or entities owned and controlled, in whole or in part, by them;

(e) an election to dissolve the Company made by the Co-Managers and more than Seventy-Five Percent in Interest of the Members; or

(f) a good–faith determination by the Co-Managers that dissolution of the Company is necessary or desirable as a result of the assets of the Company being deemed to be "plan assets" for purposes of ERISA.

The foregoing events are, to the fullest extent permitted by law, the only events that shall result in a dissolution of the Company.

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11.02 Winding Up. If the Company is dissolved pursuant to Section 11.01, the Company shall be wound up and liquidated in accordance with the Act and the following provisions:

(a) the assets of the Company shall be liquidated by the Co-Managers, or a liquidator if there is no Co-Manager, as promptly as possible; provided, however, that such liquidation is carried out in an orderly and businesslike manner so as to maximize value and not involve undue sacrifice;

(b) Profits or Losses of the Company for the year(s) of liquidation, including any net gain or loss realized by the Company upon the sale of the property and assets of the Company pursuant to Section 11.02(a) (other than Net Income that has been distributed to the Members pursuant to Section 8.02(a) prior to the commencement of winding up and liquidation proceedings), shall be credited or charged to the Capital Accounts of the Members in accordance with ARTICLE 6;

(c) proceeds from the sale of all or substantially all of the property and assets of the Company shall be applied and distributed as follows, and in the following order of priority:

(i) first, to creditors of the Company, including Members who were creditors, to the extent permitted by law, in satisfaction of all debts and liabilities of the Company and the expenses of liquidation not otherwise adequately provided for (whether by payment or the making of reasonable provisions of payment thereof), including, without limitation, the setting up of any reserves that reasonably are necessary for any contingent, conditional or unmatured liabilities or obligations of the Company or of the Members arising out of, or in connection with, the Company; and

(ii) second, to the Members as Net Cash in accordance with the provisions of Section 8.02(a); and

(d) any documents of dissolution of the Company required by law shall be filed as authorized and directed by the Co-Managers.

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

11.04 Survival of Rights, Duties and Obligations. Dissolution, winding up or termination of the Company for any reason shall not release any party

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from liability that at the time of such dissolution, winding up or termination already had accrued to any other party or that thereafter may accrue in respect to any act or omission prior to such dissolution, winding up or termination.

ARTICLE 12

TAX RETURNS; INSPECTION OF RECORDS; REPORTS TO MEMBERS

12.01 Filing of Tax Returns. The Company or its designated agent shall prepare and file, or cause the accountants of the Company to prepare and file, a federal information tax return in compliance with Section 6031 of the Code and any required state and local income tax and information returns for each tax year of the Company.

12.02 Reports to Current and Former Members.

(a) Not later than 120 days after the end of each Fiscal Year, the Co-Managers shall exercise reasonable efforts to prepare, and shall make available to each Member, a report as of the end of such Fiscal Year prepared in accordance with accounting principles generally accepted in the United States, setting forth (i) an unaudited balance sheet of the Company, (ii) an unaudited statement of operations of the Company, (iii) an unaudited statement of changes in Members' capital and cash flows and (iv) a schedule of the Company's Investments as of the end of such Fiscal Year, all as prepared by the Company's independent accountants.

(b) Not later than 60 days after the end of each fiscal quarter, the Co-Managers shall exercise reasonable efforts to prepare, and shall make available to each Member, a report as of the fiscal quarter ending on such date prepared in accordance with accounting principles generally accepted in the United States, setting forth (i) an unaudited balance sheet of the Company, (ii) an unaudited statement of operations for the Company, (iii) unaudited statements of changes in Members' capital and cash flows, (iv) a schedule of the Company's Investments as of the end of such fiscal quarter and an asset management report relating to each of the Investments, and (v) and other updates regarding the business and activities of the Company as determined by the Co-Managers in their sole discretion.

(c) Within 100 days after the end of each Fiscal Year, the Company expects to prepare and mail, or cause to be prepared and mailed, to each Member and, to the extent necessary, to each former Member (or the Member's legal representative), a report setting forth in sufficient detail that information that will enable such Member or former Member (or its legal

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representative) to prepare the Member's federal, state and local tax returns in compliance with the laws, rules and regulations then prevailing.

(d) Pursuant to Section 13.06(b), the Co-Managers may edit the information provided to the Members pursuant to this Section 12.02 to the extent reasonably necessary to protect the confidentiality of highly sensitive information.

12.03 Partnership Representative.

(a) FAMG IV shall be the partnership representative ("Partnership Representative") of the Company pursuant to Code section 6223. The Partnership Representative shall appoint an individual as the "designated individual," as provided in Regulations Section 301.6223-1(c)(3). The Partnership Representative or designated individual shall employ experienced tax counsel to represent the Company in connection with any audit or investigation of the Company by the Internal Revenue Service or other taxing authority and in connection with all subsequent administrative and judicial proceedings arising out of such audit or investigation. If the Partnership Representative or designated individual is required by law or regulation to incur fees and expenses in connection with tax matters not affecting all the Members, then the Company shall be entitled to reimbursement from those Members on whose behalf such fees and expenses were incurred. Other than as described in the preceding sentence, all expenses incurred by the Partnership Representative or designated individual shall be Company Expenses and shall be paid by the Company. The Co-Managers may, in their sole discretion, designate another entity to serve as the Partnership Representative.

(b) The Partnership Representative shall have the sole discretion to make or refrain from making any election or otherwise act on behalf of the Company in any audit proceeding involving the Company. Furthermore, if the Company receives a notice of final partnership adjustment from the Internal Revenue Service, the Partnership Representative may, as determined in their discretion and with respect to any applicable year, (x) reasonably determine the amount of any "imputed underpayment" (as defined in Section 6225 of the Code) allocable to each Member (or former Member) or (y) cause the Company to (A) elect the application of Section 6226 of the Code, with respect to any imputed underpayment arising from such adjustment, and (B) furnish to each Member (or former Member) a statement of such Member's (or former Member's) share of any adjustment to income, gain, loss, deduction or credit (as determined in the notice of final partnership adjustment).

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(c) Each Member agrees that any action taken by the Partnership Representative in connection with any U.S. federal, state, or local tax audit or proceeding affecting the Company, including any settlement or closing agreement entered into by the Partnership Representative in respect of the Company and any Member, will be binding upon the Members.

12.04 Access to Company Records. Proper and complete records and books of account of the business of the Company shall be maintained at the Company's principal place of business. The Company agrees that each current Member shall have access to certain information in accordance with Section 18-305 of the Act subject to the confidentiality provisions set forth therein and in Section 13.06. Upon reasonable advance written notice and during reasonable business hours, a Member may inspect and copy, at the Member's expense and solely for a purpose reasonably related to the Member's interest as a Member, the records of the Company required to be maintained pursuant to the Act and any financial statements maintained by the Company. Notwithstanding the foregoing, no Member shall have a right to receive (i) any information with respect to the economic participation of any other Member in the Company, (ii) any information the Co-Managers reasonably believe to be trade secrets of the Company or (iii) other information the disclosure of which the Co-Managers in good faith believe could damage the Company or its business interests. Any inspection hereunder must be in good faith without any intent to damage the Company or any of its Members in any manner.

ARTICLE 13

MISCELLANEOUS

13.01 General. This Agreement (i) shall be binding on the successors, permitted assigns, executors, administrators, estates, heirs and legal representatives of the Members, and (ii) may be executed by manual or facsimile signature, through the use of separate signature pages or in any number of counterparts, with the same effect as if the parties executing such counterparts had all executed one counterpart.

13.02 Power of Attorney. Each of the Members hereby appoints the Co-Managers with the power of substitution as such Member's true and lawful representative and attorney-in-fact, in their name, place and stead to make, execute, sign, acknowledge, swear to and file:

(a) any and all instruments, qualification, continuance, merger, consolidation, certificates, and other documents that may be deemed necessary or desirable to effect the qualification, continuance, merger, consolidation, dissolution, winding up and termination of the Company;

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(b) any business certificate, fictitious name certificate, amendment thereto, or other instrument or document of any kind necessary or desirable to accomplish the business, purpose and objectives of the Company, or required by any applicable federal, state or local law; and

(c) any amendment of this Agreement (other than amendments requiring the Member's approval pursuant to Section 13.03); provided, however, notwithstanding the foregoing, the Co-Managers shall have the power of attorney to make adjustments to the terms of this Agreement resulting from sales of Interests pursuant to Sections 5.06 and 9.01 of this Agreement.

The power of attorney hereby granted by each of the Members is coupled with an interest, is irrevocable, and shall survive and shall not be affected by the subsequent death, disability, incapacity, adjudication of incompetency, termination, Bankruptcy, insolvency or dissolution of such Member; provided, however, that such power of attorney will terminate upon the substitution of another Member for all of such Member's investment in the Company or upon the withdrawal of the Member from the Company. The Investor hereby waives any and all defenses that may be available to contest, negate or disaffirm the actions of the Co-Managers taken in good faith under such power of attorney.

13.03 Amendments.

(a) The Co-Managers may at any time amend this Agreement as they consider necessary provided that such amendment or modification shall be effective only if approved by a Majority in Interest of the Members (unless a provision of this Agreement requires the amendment or modification, as an action of the Company or the Co-Managers, to be approved by a higher threshold of the Members than a Majority in Interest of the Members, in which case the amendment or modification shall be effective only if approved by such higher threshold); provided however, no amendment which would (i) increase or create liabilities for the Members (ii) except to the extent permitted pursuant to Section 13.03(b), change (A) the rights and interests of a Member in income, (B) the voting rights of a Member, or (C) the rights of a Member respecting Invested Capital or liquidation of the Company, and (iii) amend this Section 13.03, shall become effective without the approval of all of the Members adversely affected in accordance with Section 13.03(c).

(b) Notwithstanding subsection (a) of this Section, the terms and provisions of this Agreement (including Schedule A) may be amended or modified by the Co-Managers without the consent of the Members in order to:

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(i) reflect any change, revision, amendment or modification permitted by and effected in accordance with the terms of this Agreement with respect to the

(A) name of any Member,

(B) issuance, redemption or Transfer of any Interests,

(C) admission, withdrawal or resignation of any Member,

(D) aggregate Capital Commitment and the Ownership Interests of any Member,

(E) address for notices of any Member,

(ii) change of name or address of the Company's registered agent or address for notices or name of the Company,

(iii) make any other amendment whatsoever to this Agreement which the Co-Managers deems advisable, provided that it does not adversely affect any rights of the Members.

The Co-Managers shall promptly send a notice to each Member describing such revision, amendment or modification to the Agreement (other than a revision to Schedule A reflecting the admission of new Members in the ordinary course of the Company's business).

(c) Amendments to this Agreement requiring the approval of the Members may be proposed by the Co-Managers or by the Member or Members collectively holding an Ownership Interest of 20% or greater. The Co-Managers shall submit to the Members a verbatim statement of any amendment so proposed. The Co-Managers shall include in any such submission their recommendation as to the proposed amendment. The amendment shall become effective only on the vote or consent of the Co-Managers and the Members required under this Section 13.03; provided that, for purposes of obtaining a written consent on a proposed amendment, the Co-Managers may require a response within a specified reasonable time (which shall not be less than 15 days) and failure to respond shall constitute a vote and consent in accordance with the Co-Managers' recommendation as to the proposed amendment.

13.04 Choice of Law; Priority. Notwithstanding the place where this Agreement may be executed by any of the parties hereto, the parties

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expressly agree that all of the terms and provisions of this Agreement shall be construed under the laws of the State of Delaware and, without limitation thereof, that the Act as now adopted or as may be hereafter amended shall govern this Agreement. In the event of any inconsistency or conflict between any terms of this Agreement and the Act, the terms of this Agreement shall govern to the maximum extent permitted by law.

13.05 Notices. Wherever provision is made in this Agreement for the giving of any notice, such notice shall be in writing and shall be deemed to have been duly given if sent by electronic mail to a known email address for the recipient, mailed by first-class U.S. mail, postage prepaid, addressed to the party entitled to receive the same or delivered personally to such party at the address specified below, or if delivered personally or sent by overnight courier, if to the Members, to the email and mail addresses therefor set forth on Schedule A, and if to the Company to:

Fairway Vivo GP Fund LLC
c/o Fairway America Management Group IV LLC
16150 SW Upper Boones Ferry Road
Portland, OR 97224
Attn: Legal Department
legal@FairwayAmerica.com
Matt.Burk@FairwayAmerica.com

or to such other address, in any such case, as any party hereto shall have last designated by notice to the Company. All such notices, requests and other communications will (a) if delivered personally to the address as provided in this Section, be deemed given upon delivery, (b) if delivered by certified or registered mail, return receipt requested, or by first-class mail in the manner described above to the address as provided in this Section, be deemed given three Business Days after being deposited in the United States mail, postage prepaid, (c) if delivered by email, be deemed given on the date shown on the applicable email transmitted, and (d) if delivered by overnight courier to the address as provided in this Section, be deemed given one Business Day after being deposited with the overnight courier (in each case regardless of whether such notice, request or other communication is received by any other Person to whom a copy of such notice, request or other communication is to be delivered pursuant to this Section).

13.06 Confidential Information.

(a) This Agreement and all financial statements, tax reports, portfolio valuations, reviews or analyses of potential or actual investments, the identity of Members and their Affiliates, provided such information is not

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publicly available, reports or other materials and all other documents and information concerning the affairs of the Company and its Investments, including, without limitation, information about the Company's Assets or the Persons investing in the Company (collectively, the "Confidential Information"), that any Member may receive pursuant to or in accordance with this Agreement, or otherwise as a result of its ownership of an interest in the Company, constitute proprietary and confidential information about the Company, its Investments, the Co-Managers and their Affiliates (the "Affected Parties"). The Members acknowledge that the Confidential Information is a trade secret, the disclosure of which is likely to cause substantial and irreparable competitive harm to the Affected Parties or their respective businesses.

(b) No Member shall reproduce any of the Confidential Information or portion thereof or make the contents thereof available to any third party other than to (i) such Member's (A) directors, officers and Affiliates and (B) legal, accounting or investment advisers (provided that such persons are obligated to keep the Confidential Information confidential) without the prior written consent of the Co-Managers (which consent shall include the form and content of such disclosure) and (ii) examiners, auditors, inspectors or Persons with similar responsibilities or duties of a nationally recognized industry regulatory association, federal or state governmental or regulatory body or federal, state or local taxation authority, except to the extent compelled to do so in accordance with applicable law (in which case the Member shall promptly notify the Co-Managers of their obligation to disclose any Confidential Information and shall agree to reasonably cooperate with the Co-Managers to prevent such disclosure) or with respect to Confidential Information which otherwise becomes publicly available other than through breach of this provision by a Member. Notwithstanding any provision of this Agreement, the Co-Managers may withhold disclosure of any Confidential Information (other than this Agreement or tax reports) to any Member if the Co-Managers reasonably determine such disclosure may result in such Confidential Information becoming publicly available.

(c) For the avoidance of doubt, nothing in this Section 13.06 shall limit the disclosure of the tax treatment or tax structure of (x) the Company or (y) any transactions undertaken by the Company. As used in this Section, the term "tax treatment" refers to the purported or claimed U.S. federal income tax treatment and the term "tax structure" refers to any fact that may be relevant to understanding the purported or claimed U.S. federal income tax treatment, provided that, for the avoidance of doubt, (i) except to the extent otherwise established in published guidance by the U.S. Internal Revenue Service, tax treatment and tax structure shall not include the name of, contact information for, or any other similar identifying

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information regarding the Company or any of its investments (including the names of any employees or Affiliates thereof) and (ii) nothing in this Section shall limit the ability of a Member to make any disclosure to such Member's tax advisors or to the U.S. Internal Revenue Service.

13.07 Headings. The titles of the articles and the headings of the sections of this Agreement are for convenience of reference only, and are not to be considered in construing the terms and provisions of this Agreement.

13.08 Legal Counsel. Fairway has engaged Stoel Rives LLP ("Stoel") as legal counsel to Fairway to assist with the formation of the Company. Stoel has not been engaged to protect or represent the interests of any Member vis-à-vis the Company, the Co-Managers or the preparation of this Agreement, and no legal counsel has been engaged by the Co-Managers or the Company to act in such capacity. The Members understand that Stoel plays an active role as legal counsel to many investment firms, investors and other Persons. Stoel's relationships with such Persons are periodic; they can and do lapse and then restart on an unpredictable basis, making it impractical for Stoel to provide disclosure of each and every such relationship. Without limitation on the foregoing, in their capacity as legal counsel to the Company, Stoel may be subject to actual or potential conflicts arising from: (i) its representation of one or more Members or parties related thereto in connection with matters other than the preparation of this Agreement or the operation of the Company (which representation might provide Stoel with an incentive to place the interests of such Member or Members ahead of the interests of the Company) or (ii) its representation of other Persons that seek or obtain capital from the same class of investors as the Company or compete with the Company for managerial resources or investment opportunities. Moreover, one or more Persons related to Stoel may invest in the Company or an Affiliate thereof. Each Member: (i) has carefully considered the foregoing and hereby approves Stoel's representation of the Company; (ii) acknowledges the possibility that, under the laws and ethical rules governing the conduct of attorneys, Stoel may be precluded from representing any one or more specific parties in connection with any dispute involving Members or the Company; and (iii) agrees that Stoel may decline to represent, or withdraw from its representation of, the Company at any time. Each Member: (i) acknowledges that actual or potential conflicts of interest exist among the Members, that such Member's interests will not be represented by legal counsel unless such Member engages counsel on its own behalf, and that such Member has been afforded the opportunity to engage and seek the advice of its own legal counsel before entering into this Agreement; (ii) agrees that, in the event of a dispute between one or more Members, on the one hand, and the Co-Managers or the Company, on the other hand, Stoel may represent the Co-Managers (or the Co-Managers may engage other legal counsel), one or more

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equity holders thereof, or the Company (even if there exists at any time a separate attorney/client relationship between Stoel and such Member pursuant to which Stoel has obtained Confidential Information relating to such Member); (iii) acknowledges that the approvals, acknowledgments and waivers made by such Member pursuant to this Section do not reflect or create a right under this Agreement on the part of such Member to approve the Co-Managers' selection of legal counsel to the Co-Managers or the Company; and (iv) represents that such Member has the level of knowledge and sophistication (either alone or with the assistance of its own counsel) necessary to provide its informed consent to the provisions of this Section without additional guidance or information from Stoel, the Co-Managers or the Company. Each Member further agrees that (i) neither this Agreement nor the transactions and Company operations contemplated hereby are intended to create an attorney/client relationship between Stoel and such Member or any other relationship pursuant to which such Member (acting other than in the name of the Company) would have a right to object to Stoel's representation of any Person under any circumstances; and (ii) except as otherwise expressly agreed by Stoel in writing, no subsequent attorney/client or other relationship between Stoel and such Member shall give such Member a right to object to Stoel's continuing role as counsel to the Company or any equity holder of the Co-Managers. Notwithstanding the provisions of Section 13.13, it is intended that Stoel shall be entitled to obtain enforcement of this Section. Notwithstanding the other provisions of this Agreement, this Section shall be treated as a supplement to, and not a substitution or replacement for, any other waiver, consent or other agreement provided to Stoel by any Person. Nothing in this Section shall preclude the Company from selecting different legal counsel at any time in the future and, except as specifically provided in this Section, no Member shall be deemed by virtue of this Agreement to have waived its right to object to any conflict of interest relating to matters other than this Agreement or the transactions, Company operations, and disputes contemplated in this Agreement.

13.09 Entire Agreement; Non-Waiver. This Agreement (including Schedule A), each Subscription Agreement and each side letter or similar agreement ("Side Letter") entered into between the Co-Managers and any Member constitute the full, complete, and final agreement of the Members and supersede and preempt all prior understandings, agreements or representations by or among the parties, written or oral, that may have related to the subject matter of this Agreement. Notwithstanding the provisions of this Agreement or any Subscription Agreement, it is hereby acknowledged and agreed that the Company and the Co-Managers (on their own behalf or on behalf of the Company), without the approval of any Member, may enter into a Side Letter with a Member executed contemporaneously with the admission of such Member to the Company, which has the effect of

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establishing rights under, or altering or supplementing the terms of this Agreement, of any Subscription Agreement in order to meet certain requirements of such Member. The parties hereto agree that any terms contained in a Side Letter shall govern with respect to the Member that is a party thereto notwithstanding the provisions of this Agreement or any Subscription Agreement. No delay on the part of any party in exercising any right hereunder shall operate as a waiver thereof, nor shall any waiver, express or implied, by any party of any right hereunder or of any failure to perform or breach of this Agreement by any other party constitute or be deemed a waiver of any other right hereunder or of any other failure to perform or breach of this Agreement by the same or any other Member, whether of a similar or dissimilar nature thereof.

13.10 Further Assurances. Subject to the provisions of this Agreement, each party hereto agrees to execute, with acknowledgment or affidavit, if required, any and all documents and writings which may be necessary or expedient in connection with the creation of the Company and the achievement of its purposes, specifically including (a) any amendments to this Agreement and such certificates and other documents as the Co-Managers deem necessary or appropriate to form, qualify or continue the Company as a limited liability company (or a company in which the Members have limited liability) in all jurisdictions in which the Company conducts or plans to conduct business and (b) all such agreements, certificates, tax statements, tax returns and other documents as may be required of the Company or its Members by law. In addition, if any of the information provided to the Company by a Member in their Subscription Agreement changes after such Member's admission to the Company, such Member shall provide the Co-Managers with notice of such change promptly after the occurrence thereof.

13.11 Severability. If any provision of this Agreement or the application thereof to any party or circumstance shall be held invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to the other parties or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by applicable law.

13.12 Usage. Any word or term used in this Agreement in any form shall be masculine, feminine, neuter, singular or plural, as proper reading requires. The words "of this Agreement," "hereby" or "hereto" shall refer to this Agreement unless otherwise expressly provided. References in this Agreement to particular sections of the Code, the Regulations or the Act shall be deemed to refer to such sections as they may be amended after the date of this Agreement or any corresponding sections of any successor law or regulation. When a reference is made in this Agreement to Articles, Sections or Schedules, such references shall be to an Article or a Section or

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Schedule to this Agreement unless otherwise indicated. It is the intention of the parties that every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any party (notwithstanding any rule of law requiring an agreement to be strictly construed against the drafting party), it being understood that the parties to this Agreement are sophisticated and have had adequate opportunity and means to retain counsel to represent their interests and to otherwise negotiate the provisions of this Agreement.

13.13 No Third-Party Rights. Except for the rights of parties expressly created hereby, this Agreement is intended solely for the benefit of the parties hereto and is not intended to confer any benefit upon, or create any rights in favor of, any Person other than the parties hereto.

13.14 Whole Numbers. Whenever the application of a mathematical formula contained in this Agreement would result in a fraction, each fraction that is equal to or greater than 0.50 shall be rounded upwards to the nearest whole number and each fraction that is less than 0.50 shall be rounded downwards to the nearest whole number.

13.15 USA PATRIOT Act Compliance.

(a) Prohibited Investments. The Company prohibits the investment of funds in the Company by any Persons or entities that are acting, whether directly or indirectly, (x) in contravention of any United States, international or other money laundering laws, regulations or conventions, or (y) on behalf of terrorists or terrorist organizations, including those Persons or entities that are included on any relevant lists, including the list of Specially Designated Nationals and Blocked Persons maintained by the United States Office of Foreign Assets Control, all as may be amended from time to time ("Proscribed Investments").

(b) Authority of the Co-Managers. The Co-Managers shall be authorized, without the consent of any Person, including any other Member, to take such action as they determine to be necessary or advisable to comply, or to cause the Company to comply, with any anti-money-laundering or anti-terrorist laws, rules, regulations, directives or special measures. Notwithstanding anything to the contrary contained in any document (including any Side Letters or similar agreements), if, at any time following any Member's acquisition of its Interest in the Company, it is discovered that such Member's investment is a Proscribed Investment, such Member shall be deemed to have withdrawn from the Company effective immediately and such Member shall have no claim arising out of such deemed withdrawal for any form of Damages against the Company, the Co-Managers, any Affiliate of the Co-Managers or any of their respective shareholders, partners,

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members, other equity holders, officers, directors, employees, managers, agents and other representatives, other than, if permitted by law, the right to receive payment for its Interest in the Company, in a manner corresponding to that set forth in Section 8.01 applicable to withdrawing Members, as applied in good faith by the Co-Managers in their sole discretion. Any proceeds of such Member's Interest in the Company pursuant to this Section or otherwise will be paid to the same account from which the Member's investment in the Company was originally remitted, unless the Co-Managers, in their sole discretion, agree otherwise.

(c) Release of Confidential Information. The Company or the Co-Managers may release Confidential Information about any Member and, if applicable, any beneficial owner(s) of such Member to proper authorities, if the Co-Managers, in their sole discretion, determine that it is in the best interests of the Company in light of relevant rules and regulations concerning Proscribed Investments.

13.16 Payment in U.S. Dollars. Unless otherwise requested by the Co-Managers, all payments required to be made pursuant to this Agreement shall be payable only in United States dollars and shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into any currency other than United States dollars, or any other realization in such other currency, whether as proceeds of set-off, distributions or otherwise, except to the extent that such tender, recovery or realization shall result in the effective receipt by the Person to whom such payment was owed of the full amount of United States dollars due and payable hereunder.

13.17 Performance and Remedies for Breach.

(a) General. Except as otherwise specifically provided in this Agreement, the remedies set forth in this Agreement are cumulative and shall not exclude any other remedies to which a Person may be lawfully entitled. The Co-Managers, in their sole and absolute discretion, shall determine what action, if any, shall be taken under this Agreement or applicable law against a Member in connection with such Member's breach of this Agreement.

(b) Default Provisions. Each Member hereby acknowledges that certain provisions of this Agreement (including Section 5.06 and 13.06) provide for specified consequences in the event of a breach of this Agreement by a Member. Each Member hereby agrees that the default provisions of this Agreement are fair and reasonable and, in light of the difficulty of determining actual Damages, represent a prior agreement among the Members as to appropriate liquidated Damages. Without limiting the general effect of the preceding sentence, the Members hereby specifically acknowledge and agree that the enforceability of Article 5 is essential to the stability of the

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Company as an organization and to the ability of the Company to effectively serve its purpose and conduct its business operations. In addition, the Members specifically intend and agree that the enforceability of this Agreement (including Section 5.06) shall benefit from Section 18-502(c) of the Act, which states, in part: "A limited liability company agreement may provide that the interest of any member who fails to make any contribution that the member is obligated to make shall be subject to specified penalties for, or specified consequences of, such failure," and Sections 18-1101(a) and (b) of the Act, which state: "(a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter" and "(b) It is the policy of this chapter to give maximum effect to the principle of freedom of contract and to the enforceability of limited liability company agreements."

13.18 Definitions.

(a) The following terms used in this Agreement shall be defined as follows:

"Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments: (i) Credit to such Capital Account any amounts that such Member is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and (ii) Debit to such Capital Account the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6). The foregoing definition of "Adjusted Capital Account Deficit" is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Affiliate" means, when used with reference to a specified Person at any specified time, (a) any Person that, at any such time, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with such specified Person, or (b) any Person that, at such specified time, directly or indirectly, is the beneficial owner of a majority of the voting ownership interests of such specified Person, which definition shall, as applied to the Co-Managers, specifically include any officer of the Co-Managers.

"Allocation Period" means by the number of days between the date of the Capital Contribution and the date of the allocation or distribution for which Members' respective WACC Percentages are being calculated.

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"Allocation Year" means (i) the period commencing on the Effective Date and ending on the last day of the Company's first taxable year, (ii) any subsequent period commencing on the first day of the Company's taxable year and ending on the following last day of the Company's taxable year, or (iii) any portion of the period described in clause (ii) for which the Company is required to allocate Profits, Losses, and other items of Company income, gain, loss, or deduction pursuant to ARTICLE 6.

"Asset" or "Assets" mean any real property owned by an SPE in which the Company makes an Investment.

"Bankruptcy" of a Member means: (i) the filing by such Member of a voluntary petition seeking liquidation, reorganization, arrangement or readjustment, in any form, of its debts under title 11 of the United States Code (or corresponding provisions of future laws) or any other bankruptcy or insolvency law, or such Member's filing an answer consenting to or acquiescing in any such petition; (ii) the making by such Member of any assignment for the benefit of its creditors or the admission of such Member in writing of its inability to pay its debts as they mature; (iii) seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of or for all or any substantial part of such Member's assets; (iv) the expiration of 180 days after the filing of any involuntary petition under title 11 of the United States Code (or corresponding provisions of future laws), or an involuntary petition seeking liquidation, reorganization, arrangements, composition, dissolution or readjustment of its debts or similar relief under any bankruptcy or insolvency law; provided, however, that the same shall not have been vacated, set aside or stayed within such 180-day period; or (v) the expiration of 150 days after an application, without consent of such Member, for the appointment of a trustee, receiver or liquidator of or for such Member, or all or any substantial part of such Member's assets; provided, however, that the same shall not have been vacated or stayed within such 150-day period, or within 90 days after the expiration of any such stay, the appointment is not vacated.

"Business Day" means any day except a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized by law to close.

"Capital Raise Fee" means a fee in an amount equal to 2.35% of all Capital Contributions received from Members of the Company, other than Capital Contributions from Members whose Capital Commitment to the Company are sourced by third parties who receive a separate capital raise fee based on the amount of those Capital Commitments or Capital Contributions to the Company, paid to North Capital Private Securities Corporation, a FINRA

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registered broker/dealer, with a portion of the Capital Raise Fee, in an amount not to exceed 2.0% of all Capital Contributions received from Members of the Company, as determined in the Co-Managers' discretion, payable to CMG as reimbursement for cumulative salaries and direct expenses paid by CMG to registered representatives who are involved in capital raising activities for the Company.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Company Expenses" shall include, but not necessarily be limited to, the following reasonable expenses incurred in execution of the Company's strategy and the operation of the Company: Company creation and organizational costs, tax preparation, independent auditor fees, legal fees, third-party fund administration fees, origination fees and/or interest due on any short-term Warehouse Lines, taxes, insurance, Pursuit Costs, travel costs, litigation and other extraordinary expenses, the costs and expenses of any Member meetings, the Management Fee, the Capital Raise Fee and any other capital raise fees, and any other expense associated with the operation of the Company and the management of the Investments or Assets, including all allowable expenses reasonably incurred by the Co-Managers and reimbursed by the Company, and expenses of the Member Advisory Committee.

"Company Minimum Gain" has the meaning set forth in Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

"Depreciation" means, for each Fiscal Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such Fiscal Year, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis, provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Co-Managers.

"ERISA Member" means any Member that is an "employee benefit plan" or is an entity that is deemed to hold "plan assets," each within the meaning of, and subject to the provisions of, ERISA.

"FAIA" means Fairway America Investment Advisors, LLC, a registered investment advisor and Affiliate of FAMG IV.

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"Fair Value" means the fair value of any Company Asset, security or other assets of the Company. In determining the Fair Value, all relevant factors shall be considered that are appropriate under the circumstances, including, without limitation, available appraisals, the discounted present value of estimated future cash flows, replacement costs and comparable market prices.

"Fairway America" or "Fairway" means Fairway America, LLC, an Oregon limited liability company and, as of the date of this Agreement, the Manager of FAMG IV.

"Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the Co-Managers;

(ii) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Co-Managers, as of the following times: (A) the acquisition of an additional Interest by any new or existing Member in exchange for more than a de minimis Capital Contribution; (B) the distribution by the Company to a Member of more than a de minimis amount of property as consideration for the Member's Interest in the Company; (C) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); and (D) in connection with the grant of an Interest in the Company (other than a de minimis interest) as consideration for the provision of services to or for the benefit of the Company by an existing Member acting in a partner capacity, or by a new Member acting in a partner capacity in anticipation of being a Member; provided, however, that adjustments pursuant to clauses (A), (B), and (D) above shall be made only if the Co-Managers reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(iii) The Gross Asset Value of any Company asset distributed to any Member shall be adjusted to equal the gross fair market value of such asset on the date of distribution as determined by the distributee and the Co-Managers; and

(iv) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Section 743(b) but only to the extent that such adjustments are taken into account in determining Capital

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Accounts pursuant to (A) Regulations Section 1.704-1(b)(2)(iv)(m) and (B) subparagraph (vi) of the definition of "Profits" and "Losses" or Section 7.03(g), provided, however, that Gross Asset Values shall not be adjusted pursuant to this subparagraph (iv) to the extent the Co-Managers determines that an adjustment pursuant to subparagraph (ii) is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (iv).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraphs (i), (ii), or (iv), such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

"Invested Capital" means, with respect to each Member, at any date of determination, (i) the aggregate amount of all Capital Contributions previously made by such Member (including, but not limited to, amounts thereof used to pay the Management Fee, Company Expenses, and any other expenses or liabilities of the Company), less (ii) the aggregate amount that has previously been distributed or deemed distributed to such Member pursuant to the terms of or with respect to Sections 8.02(a)(i) and 11.02(c)(ii).

"Investment" means any amount invested by the Company in managing member or general partner equity interests issued by an SPE.

"Losses" has the meaning set forth in the definition of "Profits" and "Losses."

"Majority in Interest of the Members" means the Member or Members collectively holding an Ownership Interest greater than 50% as of the date of the calculation.

"Maximum Offering" means $25,000,000; provided that the Co-Managers may determine in their sole discretion to increase that amount.

"Member Nonrecourse Debt" has the same meaning as the term "partner nonrecourse debt" set forth in Regulations Section 1.704-2(b)(4).

"Member Nonrecourse Debt Minimum Gain" means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

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"Member Nonrecourse Deductions" has the same meaning as the term "partner nonrecourse deductions" set forth in Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

"Net Cash" means all receipts (including distributions and other income received from the SPEs in which the Company invests) from operations of the Company, but excluding Capital Contributions or any amounts borrowed by the Company, less any amounts thereof used to pay Company Expenses, including the Management Fee, the Capital Raise Fee, other capital raise fees, principal or interest on any Warehouse Line or other indebtedness of the Company, or any other expenses or liabilities of the Company or to establish or replenish any reserves for such purposes or for the purposes of paying anticipated or unknown capital improvements, replacements, or other contingencies, all as determined by the Co-Managers in their sole discretion.

"Nonrecourse Deductions" has the meaning set forth in Regulations Sections 1.704-2(b)(1) and 1.704-2(c).

"Nonrecourse Liability" has the meaning set forth in Regulations Section 1.704-2(b)(3).

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

"Profits" and "Losses," as appropriate, means, for each Allocation Year, an amount equal to the Company's taxable income or loss for such Allocation Year, determined in accordance with Code § 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code § 703(a)(1) shall be included in taxable income or loss), with the following adjustments (without duplication):

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition of "Profits" and "Losses" shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code § 705(a)(2)(B) or treated as Code § 705(a)(2)(B) expenditures pursuant to Treasury Regulations § 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition of "Profits" and "Losses," shall be subtracted from such taxable income or loss;

(c) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraphs (ii) or (iii) of the definition of "Gross

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Asset Value," the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the Gross Asset Value of the asset) or an item of loss (if the adjustment decreases the Gross Asset Value of the asset) from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses;

(d) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Allocation Year, computed in accordance with the definition of Depreciation;

(f) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code § 734(b) is required, pursuant to Treasury Regulations § 1.704-(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member's interest in the Company, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses; and

(g) Notwithstanding any other provision of this definition, any items that are specially allocated pursuant to Section 7.03 of the Agreement shall not be taken into account in computing Profits or Losses.

The amounts of the items of Company income, gain, loss, or deduction available to be specially allocated pursuant to Section 7.03 shall be determined by applying rules analogous to those set forth in subparagraphs (a) through (f) above.

"Pursuit Costs" means all costs and expenses incurred by the Company, or an SPE when the Company is the sole partner or member of the SPE, , in connection with the potential acquisition of an Asset including legal fees, third-party due diligence fees and expenses (such as environmental, property condition, and appraisal reports), closing costs, accounting and administration fees, earnest money deposits, the costs of obtaining third-party architectural drawings and similar plans, costs relating to obtaining permits and zoning approvals, and similar pre-asset acquisition costs reasonably necessary to the

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pursuit and acquisition of Assets, all consistent with ordinary industry practices.

"Regulations" means the Income Tax Regulations, including Temporary Regulations, promulgated under the Code, as such regulations may be amended, modified, or supplemented from time to time (including corresponding provisions of succeeding regulations).

"Seventy-Five Percent in Interest of the Members" means the Member or Members collectively holding an Ownership Interest of at least 75% as of the date of the calculation.

"Transfer" means, as applicable, a sale, exchange, transfer, assignment, pledge, hypothecation or other disposition of (i) all or any portion of an Interest or (ii) all or any portion of a Member's obligations to make Capital Contributions pursuant to its Capital Commitment or its right to acquire an Interest in exchange therefor, in each case, either directly or indirectly, to another Person. When used as a verb, the term "Transfer" has a correlative meaning.

"Two-Thirds in Interest of the Members" means the Member or Members collectively holding an Ownership Interest of at least 66% as of the date of the calculation.

"Verivest" means Verivest LLC, an Affiliate of FAMG IV and the entity retained by it to provide fund administration and tax services to the Company.

Term	Where Defined
Act	Section 1.01
Admin Fee	Section 2.12(b)
Advisers Act	Section 2.14(b)
Advisory Services Agreement	Section 2.01(b)(xix)
Affected Parties	Section 13.06(a)
Agreement	Preamble
Capital Account	Section 7.01
Capital Call	Section 5.05(a)
Capital Call Notice	Section 5.05(c)
Capital Commitment	Section 5.01(a)
Capital Contribution	Section 5.01(a)
Claims	Section 10.02(a)
Closing	Section 5.03
CMG	Section 2.10
Co-Managers	Preamble
Company	Preamble

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Term	Where Defined
Company Act	Section 4.02(a)
Confidential Information	Section 13.06(a)
Covered Person	Section 10.01(a)
Damages	Section 10.02(a)
Defaulted Amount	Section 5.06(a)
Defaulting Member	Section 5.06
Dissolution Event	Section 11.01
Effective Date	Preamble
ERISA	Section 4.02(a)
FAMG IV	Preamble
Fiscal Year	Section 1.07
Independent Activity	Section 3.06(a)
Initial Closing	Section 5.02
Initial Closing Date	Section 5.02
Initial Member	Preamble
Interests	Section 3.02
Investment Committee	Section 2.13
Investment Period	Section 5.05
Issuance Items	Section 7.03(h)
Management Fee	Section 2.09
Members	Preamble
Member Advisory Committee	Section 2.14(a)
Memorandum	Section 3.05(f)
Opportunity	Section 2.07
Ownership Interest	Section 3.02
Partnership Representative	Section 12.03
Proceeding	Section 10.02(a)
Proceeds	Section 8.03
Proscribed Investments	Section 13.15(a)
Raise Period	Section 5.03
Securities Act	Section 3.05(f)
Side Letter	Section 13.09
SPE or Special Purpose Entity	Section 1.05
Stoel	Section 13.08
Subscription Agreement	Section 3.05(b)
Tax Payments	Section 8.07
Term	Section 1.06
Vivo	Preamble
WACC or Weighted Average Capital Contribution	Section 6.01(b)
WACC Percentage	Section 6.01(c)

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Term	Where Defined
Warehouse Line	Section 4.03(a)
Weighted Value	Section 6.01(e)

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first set forth above.

CO-MANAGERS:

Fairway America Management Group IV LLC

By: ______________________________
Name: Matthew W. Burk
Title: Manager

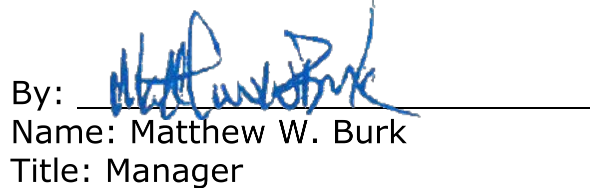
Vivo Investments LLC

By: ______________________________
Name: Dan Norville
Title: Manager

MEMBERS:

Those persons listed on Schedule A

By: Fairway America Management Group IV LLC, as attorney in fact for the Members pursuant to Section 7 of the Subscription Agreements



By: ______________________________
Name: Matthew W. Burk
Title: Manager

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SCHEDULE A

Name of Member	Address for Notices	Aggregate Capital Commitment	Ownership Interest

This Schedule A shall be revised, amended or otherwise modified in accordance with Section 13.03(b), and as so revised, amended or modified shall be incorporated therein.